III. Main areas of concern and recommendations

E. Violence against children (arts. 19, 24 (3), 28 (2), 34, 37 (a) and 39)

Corporal punishment

21. While noting with appreciation that corporal punishment is prohibited in all settings, the Committee notes with concern that corporal punishment, particularly in the home, persists. Recalling its previous recommendation (see CRC/C/ESP/CO/3-4, para. 35), the Committee draws the State party’s attention to its general comment No. 8 (2006) on the right of the child to protection from corporal punishment and other cruel or degrading forms of punishment and recommends that the State party:

(a) Continue to raise awareness about the unlawfulness of corporal punishment and its negative effects on child development and to promote positive, non-violent and participatory forms of child-rearing and discipline;

(b) Adequately monitor and enforce the prohibition of corporal punishment.

Abuse and neglect

22. The Committee regrets the lack of progress in adopting a comprehensive law on violence against children. With reference to its general comment No. 13 (2011) on the right of the child to freedom from all forms of violence, the Committee recommends that the State party:
(a) Expedite the adoption of legislation guaranteeing comprehensive protection of children against violence and ensure its application at all levels;
(b) Undertake a broad assessment of the extent, risk factors and nature of violence against, and abuse or neglect of children, with a view to developing a comprehensive national strategy to prevent and address those phenomena;
(c) Adopt a national framework for coordination between administrations and institutions to adequately respond to situations of violence against, and abuse or neglect of, children, paying particular attention to their gender dimensions;
(d) Increase the provision of programmes aimed at raising awareness among and educating children about their right to be free from violence and about where to seek assistance in cases of violence, abuse or neglect and consult with children when designing and implementing such programmes to ensure that they are both relevant and useful;
(e) Ensure the allocation of adequate human, technical and financial resources to address the root causes of violence against and abuse and neglect of children;
(f) Encourage community-based programmes aimed at preventing and tackling domestic violence, child abuse and neglect.

F. Family environment and alternative care (arts. 5, 9–11, 18 (1) and (2), 20, 21, 25 and 27 (4))

Family environment

26. Recalling its previous concluding observations (see CRC/C/ESP/CO/3-4, para. 40), the Committee recommends that the State party:

(a) Increase the provision of timely and sufficient assistance and counselling to parents and other caregivers at risk of neglecting or ill-treating their children;
(b) Strengthen the system of family benefits and child allowances to support parents and children in general, with additional support, in particular, for families at risk due to poverty, single-parent families, families with numerous children and/or unemployed parents.
27. The Committee is seriously concerned about:
(a) The high number of children in residential care and the fact that residential care is, in practice, used as the primary alternative as an initial measure;
(b) Insufficient resources resulting in delays in the assumption of State guardianship and inadequate facilities and overcrowding in some residential care centres;
(c) Instances of ill-treatment and degrading treatment of children in residential care centres, including allegations of solitary confinement, medical misdiagnosis and incorrect medical treatment, as well as a lack of child-centred monitoring and reporting systems and complaints mechanisms for children;
(d) Inadequate support for children in their transition from childhood to adulthood.

28. Recalling the Guidelines for the Alternative Care of Children and the Committee’s previous recommendations (see CRC/C/ESP/CO/3-4, para. 42) the Committee recommends that the State party increase the resources allocated to efforts to prevent the separation of children from their families and ensure the sufficient provision of support and assistance, including subsidies and professional support, particularly to families with children in disadvantaged or marginalized situations. It also recommends that the State party:
   (a) Expedite the process of deinstitutionalization, ensuring that residential care is used as a measure of last resort, and ensure that all remaining residential care centres meet at least the minimum quality standards;
   (b) Ensure that decisions on child removal are always made or reviewed by a judge and only after thorough assessment of the best interests of the child in each particular case;
   (c) Allocate adequate human, technical and financial resources to the promotion of family foster care and to improving and developing the skills of foster parents and families and professional specialized carers;
   (d) Ensure humane and dignified conditions in remaining centres for children with behavioural or social difficulties and thoroughly investigate any allegations of abuse or ill-treatment committed in these centres;
   (e) Constantly supervise and monitor the quality of alternative care provided to children, including by providing accessible channels for reporting, monitoring andremedying ill-treatment of children and ensure accessible complaints mechanisms for children in State residential and foster care;
Adoption

29. The Committee welcomes the adoption of amendments to the law on intercountry adoption, aimed at ensuring the same processes, guarantees and safeguards throughout the State party, and the forthcoming creation of a single national adoption registry at the beginning of 2018. The Committee recommends that the State party:
   (a) Expedite the revision of the regulations on intercountry adoption, ensuring that they are in line with the Convention;
   (b) Allocate sufficient resources to the State general administration body in charge of intercountry adoption matters;
   (c) Increase coordination and collaboration among the entities responsible for adoption.

Children in prison with their mothers

30. The Committee recommends that the State party seek alternative measures to detention for pregnant women and mothers with small children wherever possible and that the best interests of the child be considered carefully and independently at the time of sentencing.

I. Special protection measures (arts. 22, 30, 32, 33, 35, 36, 37 (b)–(d) and 38–40)

Asylum-seeking and refugee children

42. The Committee is concerned about the lack of information regarding the implementation of the Committee’s previous recommendation to afford adequate protection to all children, irrespective of their nationality (see CRC/C/ESP/CO/3-4, para. 58). The Committee is also seriously concerned at:
(a) The absence of an updated implementing decree for the asylum law and the fact that children are not recognized as applicants for international protection in their own right;
(b) Substandard reception and accommodation conditions and neglect in overcrowded temporary holding centres for foreigners, denial of freedom of movement to travel onward in the State party and delays in transfers from the autonomous cities of Ceuta and Melilla to mainland Spain for asylum-seeking children and their families;
(c) The absence of accessible complaints mechanisms for children in cases of allegations of violations of their rights in protection centres;
(d) Children travelling with family members other than their parents being separated from those family members at the border, particularly in the autonomous city of Melilla.

43. Taking into account its general comments No. 22 (2017) on the general principles regarding the human rights of children in the context of international migration and No. 23 (2017) on State obligations regarding the human rights of children in the context of international migration in countries of origin, transit, destination and return, both issued jointly with the Committee on the Protection of the Rights of All Migrant Workers and Members of Their Families, the Committee urges the State party to facilitate access to fair and efficient asylum procedures for children in need of international protection, regardless of their country of origin, including by providing information to children on their right to international protection. In particular, the Committee urges the State party to:
(a) Expedite the adoption of an updated implementing decree for the asylum law and include in the decree the recognition of children as applicants for international protection in their own right;
(b) Train all professionals involved in international protection and migration on the Convention, the rights of the child and the duty to protect children seeking international protection;
(c) Establish adequate reception facilities for children, principally in the autonomous cities of Ceuta and Melilla and for those children arriving in Andalusia by sea, with specialized legal assistance, adequately trained interpreters and child-friendly services and expedite the processing and transfer of asylum-seeking children and their families;
(d) Develop effective mechanisms to receive and address complaints from children in protection centres, take measures to prevent cases of ill-treatment and effectively investigate any reported cases;
(e) Build the capacity of border guards and relevant professionals to adequately identify children and their specific protection needs, taking into account their age, gender and diversity, and ensure a swift transfer to adequate reception centres;
(f) Establish differentiated and prompt procedures and resources for children, especially to prevent separation of children from their families, and expedite status-determination procedures in urgent cases of family tracing and reunification, especially in the autonomous city of Melilla;
(g) Consider acceding to the Convention on the Reduction of Statelessness.

### Unaccompanied children

44. The Committee is seriously concerned that, under Spanish legislation, the Attorney General is empowered to undertake age-determination procedures for foreign unaccompanied children. While noting the information provided to the Committee by the State party delegation, the Committee is nevertheless concerned about the use of intrusive age-assessment methods, even in cases where the identification documents appear to be authentic, particularly in the autonomous cities of Ceuta and Melilla, and despite several Supreme Court decisions on this practice. The Committee is also concerned about:

(a) Unaccompanied children who are excluded from the child-protection system as a result of age assessment and who may consequently fall victim to trafficking;
(b) The inadequate and uneven protection standards for unaccompanied children across autonomous communities, including cases of lack or delay of legal assistance, or of provision of inadequate information to children;
(c) The high levels of violence, the inadequate nature of the treatment and protection provided by professionals in reception centres for children, including allegations of prostitution of girls and insufficient access to regular education and leisure activities, and the lack of a complaints mechanism;
(d) The practice of the automatic pushback of children seeking international protection in the autonomous cities of Ceuta and Melilla, without the necessary guarantees;
(e) Insufficient information-sharing and coordination concerning the referral of unaccompanied children by police to child-protection agencies;
(f) The situation of about 100 foreign unaccompanied children in street situations in the vicinity of the harbour of the autonomous city of Melilla.
45. Taking into account its general comment No. 6 (2005) on treatment of unaccompanied and separated children outside their country of origin and its general comments No. 22 (2017) and No. 23 (2017), and recalling its previous recommendations (see CRC/C/ESP/CO/3-4, para. 60), the Committee urges the State party to review Act No. 26/2015 and the framework protocol for unaccompanied foreign minors to ensure that they are in line with the provisions of the Convention. It also urges the State party to:

(a) Ensure effective legal protection for unaccompanied children across all its territory and ensure that the principle of non-refoulement is applied and that the best interests of the child are taken into account as a primary consideration, and provide additional training and guidance to relevant professionals on assessing the best interests of the child;

(b) Develop a uniform protocol on age-determination methods, for all territory of the State party, that is multidisciplinary and respectful of human rights and used only in cases of serious doubt about the claimed age and in consideration of documentary or other forms of evidence available;

(c) Establish child-friendly reception centres for children, with accessible and effective complaints mechanisms, and thoroughly investigate any cases of violations of children’s rights;

(d) End the practice of the automatic pushback of some children, ensuring that all procedures and standards are in accordance with their status as children and with national and international legislation;

(e) Improve information-gathering and -sharing to ensure referral to child protection services of unaccompanied children, child victims of trafficking in persons and child applicants for international protection;

(f) Strengthen cooperation with the Office of the United Nations High Commissioner for Refugees for the implementation of these recommendations.

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**Country Report**

CRC/C/ESP/5-6

### III. Principal areas of concern and recommendations

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**B. Specific rights (arts. 5–30)**
Children with disabilities (art. 7)

12. The Committee is concerned:

   (a) That children with disabilities are institutionalized in the State party and that measures taken to ensure the comprehensive deinstitutionalization of all children with disabilities are still insufficient;

   (b) About the lack of access to universal and accessible health care services for children with disabilities, particularly in rural areas;

   (c) About the lack of measures aimed at enabling children with disabilities to freely express their views on all matters affecting them on equal basis with other children.

13. The Committee recommends that the State party:

   (a) Take immediate measures to end the institutionalization of children with disabilities by, inter alia, developing and implementing a strategy to promote safe and supported family settings in the community, with specific timeframes and adequate allocated budget;

   (b) Ensure universal access to primary health care services for all children with disabilities, including early intervention services;

   (c) Ensure that all children with disabilities can express their views freely on all matters affecting them by, inter alia, ensuring disability and age-appropriate assistance.

Respect for home and the family (art.23)

43. The Committee is concerned about the:

   (a) Lack of adequate policies and related services to support families of children with disabilities;
(b) Persistence of biases and stereotypes by staff of the justice and social service administrations on the parenthood capacity of parents with disabilities.

44. The Committee recommends to:

(a) Develop adequate policies and provide the support necessary for children with disabilities to remain in the family, including through the promotion of foster family-related services;

(b) Provide support for parents with disabilities to retain full parental responsibility of their children and promote a positive image of their capacities and rights to parenthood and family life.

UPR

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Hague Intercountry Adoption

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Acronyms and Abbreviations:

- **CEDAW**: Convention on the Elimination of All Forms of Discrimination against Women
- **CRC**: Convention on the Rights of the Child/Committee on the Rights of the Child
- **CRPD**: Convention on the Rights of Persons with Disabilities
- **ICCRP**: International Covenant on Civil and Political Rights
- **ICESCR**: International Covenant on Economic, Social and Cultural Rights
Country Care Review:
Spain

OPAC to CRC  Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict
UN        United Nations
UPR        Universal Periodic Review