



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS  
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Excellency,

I have been following the third cycle of the Universal Periodic Review (UPR) of Spain and welcome the constructive engagement of your Government during the 35<sup>th</sup> session of the UPR Working Group in January 2020.

As the final outcome report on the review of Spain was adopted by the Human Rights Council at its 44<sup>th</sup> session, I would like to take this opportunity to follow up on a number of areas raised in the two reports that my Office had prepared for the review of Spain – the Compilation of United Nations information and the Summary of Stakeholders' submissions – which I consider in need of particular attention over the next four and a half years, until the next cycle of the UPR. In identifying those areas, I have considered the statements and/or recommendations made by 110 delegations and the presentation made and responses provided by the delegation of Spain. I have also considered the actions taken by the Government of Spain to implement the 164 recommendations fully supported as well as those that were partially accepted during the second cycle of the UPR. The aforementioned areas cover a range of issues, which appear in the annex to this letter.

I am pleased to note that Spain is taking measures to strengthen its legislative human rights framework and is working on the adoption of the Comprehensive Act on Equal Treatment and Non-Discrimination, the Organic Law on the Comprehensive Guarantee of Sexual Freedom and of the Organic Law for the Equality of LGBTI persons. I look forward to the adoption of these laws and encourage Spain to strengthen the functioning of its human rights and non-discrimination institutions, including through the provision of necessary powers and resources to enable them to carry out their mandate effectively and independently. I appreciate the National Action Plan on Business and Human Rights and, in the same vein, I encourage Spain to establish effective mechanisms to ensure that companies perform human rights due diligence.

In face of the economic and social consequences of the COVID-19 pandemic, I am particularly encouraged by the Minimum Living Income policy launched last May and by the fact that the universal public health system was reinstated in 2018. I appreciate that Spain has pledged to make social access to housing one of its priorities. Given that women are most likely to bear the brunt end of the virus, I further note with satisfaction measures taken to strengthen gender equality and combat all forms of violence against women and girls, including the adoption in 2017 of the National Pact against Gender-based Violence as well as the approval of the draft Organic Law on the Comprehensive Protection of Children and Adolescents from Violence.

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Her Excellency  
Ms. Arancha GONZALEZ LAYA  
Minister for Foreign Affairs, the European Union and Cooperation  
Spain

I take note that during the adoption of its UPR report, Spain committed to continue working to guarantee the respect of the rights to freedom of expression and assembly and to ensure compliance with the principle of proportionality in the use of force, as required by international standards. I note that Spain has committed to uphold the rights of migrants and, in this context, I highlight the fundamental importance of protecting and fulfilling the human rights of children in the context of international migration.

I encourage Spain to develop a comprehensive national human rights action plan in order to achieve concrete results in the areas highlighted in the annex to this letter and to facilitate preparations for the fourth cycle of the UPR. My advice to all Member States is to develop and implement national action plans in close consultation and cooperation with all stakeholders, in particular the national human rights institution and all civil society organizations and, where necessary, with the support of international organizations, including my Office.

I also encourage Spain to establish a national mechanism for comprehensive reporting and follow-up in relation to recommendations received from all international and regional human rights mechanisms and to treaty obligations, while linking these to the Sustainable Development Goals. I strongly recommend the use of the OHCHR practical guide on this topic, which is available at:

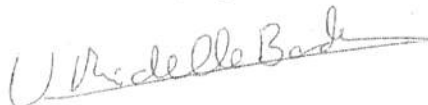
[http://www.ohchr.org/Documents/Publications/HR\\_PUB\\_16\\_1\\_NMRF\\_PracticalGuide.pdf](http://www.ohchr.org/Documents/Publications/HR_PUB_16_1_NMRF_PracticalGuide.pdf).

Please note that I am sharing my advice with all Member States as they go through the third cycle of the UPR with a view to assisting them with the implementation of the recommendations, following the review. An important measure that can positively contribute to follow-up action is voluntary mid-term reporting. Therefore, I strongly encourage all Member States to submit a voluntary mid-term report two years after the adoption of the UPR outcome report. In this regard, I welcome the practice of Spain of submitting mid-term reports and encourage the Government to do so again on follow-up to the third cycle of the review, by 2022.

As stated by the Secretary-General in his 2017 report on the work of the Organization (A/72/1, paragraph 98): *"The Human Rights Council's universal periodic review process is now entering a new cycle, with every Member State scheduled for a third round of scrutiny. We will work to strengthen the relevance, precision and impact of the Council's recommendations, including by providing better support to Member States in implementation, stronger collaboration with United Nations country teams and the establishment of national mechanisms for human rights reporting and follow-up to link the universal periodic review to the implementation of the Sustainable Development Goals."*

I look forward to discussing with you ways in which my Office may assist Spain in relation to the areas identified in this letter and its annex.

Please accept, Excellency, the assurances of my highest consideration.



Michelle Bachelet  
High Commissioner for Human Rights

## **Annex**

### **Scope of international obligations and cooperation with international human rights mechanisms and bodies**

- Envisaging the ratification of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

### **National human rights framework**

- Considering the allocation of the necessary financial resources to the National Preventive Mechanism, as required by the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment and by the guidelines on national preventive mechanisms (CAT/OP/12/5).

### **Implementation of international human rights obligations, taking into account applicable international humanitarian law**

#### **A. Cross-cutting issues**

##### *Equality and non-discrimination*

- Considering the adoption of a law against hate crimes that provide for comprehensive assistance and adequate protection and restitution to victims.
- Implementing special measures to ensure equal opportunities for participation by people of African-descent in public employment and governmental bodies, and carrying out related education campaigns.

##### *Development, the environment, and business and human rights*

- Establishing effective mechanisms to ensure full implementation of the National Plan on Business and Human Rights that incorporate an explicit focus on children rights; and taking adequate measures, including legislative measures, to prevent corporations from engaging in activities that adversely affect the rights of indigenous peoples and minorities and to make them accountable for their actions.

#### **B. Civil and political rights**

##### *Right to life, liberty and security of person*

- Taking effective measures to fully ensure that the use of force by law enforcement officials is both necessary and proportionate, including by implementing clear and binding rules governing the use of force fully compatible with the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, and providing further related training to them.
- Ensuring that complaints of disproportionate use of force by law enforcement officials are investigated and perpetrators brought to justice.

##### *Administration of justice, including impunity, and the rule of law*

- Continuing to take measures to ensure the right to truth, to justice and to reparation as well as the guarantee of non-repetition for all the victims of the civil war, including by

adopting a national plan on the search for disappeared persons, and considering to repeal the Amnesty Act.

#### *Fundamental freedoms*

- Ensuring the full enjoyment of the rights to freedom of expression and peaceful assembly, in conformity with international standards, including by reviewing/repealing legislation, which disproportionately/unduly restrict the exercise of these rights.
- Accepting the requests made by relevant United Nations human rights experts to visit the country.
- Ensuring that journalists and human rights defenders can perform their job without undue interference.

#### *Prohibition of all forms of slavery*

- Continuing to investigate allegations of trafficking in persons; prosecuting and punishing those responsible; and providing comprehensive redress for victims.

### **C. Economic, social and cultural rights**

#### *Right to work and to just and favourable conditions of work*

- Continuing fully implementing the Spanish Activation for Employment Strategy 2017-2020, including by giving due consideration to groups disproportionately affected by unemployment and generating decent work opportunities that provide job security and adequate protection of labour rights, including for people of African-descent.

#### *Right to social security*

- Ensuring the pension system's sustainability and that everyone is covered by the social security system, including the most disadvantaged or marginalized persons and groups.

#### *Right to an adequate standard of living*

- Ensuring that any austerity measure adopted is temporary, necessary, proportionate and non-discriminatory.
- Considering to increase investment in social protection, particularly to protect children from social exclusion, poverty and inequality.
- Continuing to take measures to promote the right to housing; establishing appropriate requirements and procedures for conducting evictions; and providing safeguards to ensure that persons affected have access to compensation or alternative accommodation as well as to an effective remedy.

#### *Right to health*

- Continuing to take measures to ensure the accessibility and availability of health-care services for all.
- Ensuring, in practice, the accessibility and availability of sexual and reproductive health services for all women and adolescents.



### *Right to education*

- Adopting a strategy that address the socioeconomic factors which may influence decision to leave education prematurely, giving due consideration to the groups most affected; combating school segregation and adopting effective related educational policies; formulating a comprehensive education policy with strategies for promoting a culture of inclusion; and ensuring access to education to the most disadvantaged persons and groups, including Gitano, Roma, all migrants and asylum seekers.

## **D. Rights of specific persons or groups**

### *Women*

- Continuing to take measures to protect women from violence and ensuring them access to immediate means of redress and protection; and prosecuting and adequately punishing the perpetrators.
- Ensuring full application of due diligence in domestic violence cases and the provision of mandatory training for judges and law enforcement officers.
- Continuing to take measures to promote equal opportunities and equal treatment of women in employment and to limit their exposure to desegregated and precarious work; and increasing women's participation in entrepreneurship and economic decision-making.

### *Children*

- Promoting a comprehensive assessment of the budget needs of children.
- Ensuring full implementation of the draft Organic Law on the Comprehensive Protection of Children and Adolescent from Violence at all levels, as well as child-friendly channels for the reporting of sexual exploitation and abuse.
- Considering to raise the legal age of marriage to 18 years for both men and women.

### *Persons with disabilities*

- Taking the legislative and policy measures needed to promote the employment of persons with disabilities and fully implementing the legal quota established in the revised text of Act No. 9/2017 on public sector contract.
- Carrying out further campaigns aimed at eliminating negative stereotypes towards persons with disabilities and at promoting the recognition of and respect for their rights.
- Addressing gender-based violence against women with intellectual or psychosocial disabilities and taking effective measures to prevent, investigate and provide redress for violations of their human rights and to prosecute the perpetrators.

### *Minorities*

- Addressing the situation of minorities, including Gitanos, Roma and people of African-descent, overcoming prejudice and negative stereotypes and improving protection of their rights, by ensuring access to job opportunities, quality health care, social security and education; increasing their representation at all levels of the public administration; and promoting opportunities for them in the private sector.



- Encouraging the promotion, preservation, expression and dissemination of the cultural identity and historical legacy of the Gitano population.

*Migrants, refugees and asylum seekers*

- Considering the elimination of the use of deprivation of liberty of migrants in irregular situation or asylum seekers.
- Guarantying an adequate mechanism for the early identification and for supporting persons with specific needs arriving in the temporary holding centres in Ceuta and Melilla; and developing a uniform protocol on age-determination methods fully in line with human rights.
- Considering the revision of the Public Security Act and ensuring that all persons seeking international protection have access to fair and personalized assessment procedures, to protection against refoulement without discrimination, and to an independent mechanism with the authority to suspend negative decisions.