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Human Rights Committee

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**Consideration of reports submitted by States parties
under article 40 of the Covenant**

List of issues in relation to the sixth periodic report of Spain

Addendum

Replies of Spain to the list of issues*

[Date received: 17 March 2015]

* The present document is being issued without formal editing.



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Constitutional and legal framework (arts. 1 and 2)

Reply to paragraph 1 of the list of issues

1. The Views adopted by the Committee under the Optional Protocol to the Covenant are implemented by the institutions and departments responsible for the fields in question. The Ministry of Foreign Affairs and Cooperation is responsible for forwarding communications received in the context of this procedure. Drawing on the information provided by the competent institutions and departments, the Sub-Directorate General for Constitutional Matters and Human Rights of the State Legal Service (part of the Ministry of Justice) drafts reports for the Committee on the measures taken to give effect to the Views. These reports are published in the Official Gazette of the Ministry of Justice.

2. In almost all the individual communications mentioned in paragraph 1 of the list of issues, the Committee has found a violation of article 14, paragraph 5, of the Covenant in relation to insufficient access to a second-instance review in the Spanish criminal system (see paragraph 47 below on this matter). The Government of Spain provided the Committee with information on the measures taken to give effect to its Views on communication No. 1945/2010 (Achabal) and communication No. 2008/2010 (Aarrass) on 27 February 2015.

Non-discrimination, equal rights for men and women (arts. 2, 3 and 26)

Reply to paragraph 2 of the list of issues

3. The training handbook on mainstreaming the principle of equality and non-discrimination into public policy design, implementation and assessment¹ has already been used as the basis for training activities for management and administrative staff in State institutions. The State-funded support service for victims of discrimination on the grounds of racial or ethnic origin² is provided by a network of specialized NGOs in order to guarantee its accessibility to persons who are at risk or, because of their administrative situation, are reluctant to contact the authorities to report the discrimination they have suffered. In application of Act No. 15/2014 on streamlining the public sector and other administrative reform measures, the former Directorate General for Equal Opportunities has been subsumed by the Institute for Women to create a new autonomous entity named the Institute for Women and Equal Opportunities. The likewise renamed Council for the Elimination of Racial and Ethnic Discrimination is attached to the Institute but, as underlined in the Act, is functionally autonomous. Since the Institute for Women was already the body responsible for promoting equal treatment in gender equality matters for the purposes of European Union Directives 2006/54/EC and 2004/113/EC, and the Council is the body responsible for promoting equal treatment without discrimination on the grounds of racial or ethnic origin, pursuant to European Council Directive 2000/43/EC, the new independent body emerging from this merger, with its extended powers and capacity, is set to become a benchmark institution for equal treatment.

¹ Spanish and English versions of the manual may be found at: http://www.msssi.gob.es/ssi/igualdadOportunidades/noDiscriminacion/documentos/Manual_cast_invertir_igualdad.pdf; http://www.msssi.gob.es/ca/ssi/igualdadOportunidades/noDiscriminacion/documentos/Manual_ingles_invertir_igualdad.pdf.

² See <http://asistenciavictimasdiscriminacion.org/>.

Reply to paragraph 3 of the list of issues

4. With regard to progress made towards the adoption of the Second Human Rights Plan, a draft text analysing the human rights situation in Spain has been submitted to a round of consultation and comment within the various ministries which concluded a few weeks ago. A template has been drawn up that will allow the different ministries to work simultaneously on formulating proposals for measures to be included in the Human Rights Plan.

5. The Comprehensive Strategy on Racism, Racial Discrimination, Xenophobia and Related Forms of Intolerance has served as a core guide for the various State bodies, allowing for greater inter-institutional coordination in the development of policies to combat racism, xenophobia and intolerance, and has become an essential point of reference for all stakeholders. The corresponding assessment and follow-up report is currently being drafted. Various initiatives have been launched in application of the Strategy, focusing on employment issues, improving understanding of racism and xenophobia, awareness-raising, training and education. These include:

- The “Managing Cultural Diversity in Small and Medium Enterprises” project;³
- Annual reports on the evolution of racism, xenophobia and other related forms of intolerance in Spain, issued by the Spanish Monitoring Centre on Racism and Xenophobia;⁴
- Changes to the crime statistics system, among other reforms, to incorporate the definition of racism and xenophobia proposed by the European Commission against Racism and Intolerance, the aim being to achieve a more global perspective when documenting incidents of racism and adopt a universal vision of the concept.
- Report on hate crimes committed in Spain in 2013, published by the Ministry of the Interior;
- Training for more than 20,000 officers of the Spanish security forces and law enforcement agencies under the programme of training in how to recognize and document racist incidents;
- Provision for the appointment of “social liaison officers” in the protocol for action by the security forces and law enforcement bodies in response to hate crimes and conduct that violates anti-discrimination laws (December 2014). These officers will serve as the central point of contact with associations and NGOs working to support groups likely to suffer discrimination;
- Creation of a national office for the legal protection of equality and prevention of discrimination within the Public Prosecution Service, involving the establishment of 50 hate crime units throughout Spanish territory (objective 2.4 of the Strategy);
- Launch of an anti-racism and xenophobia programme for judges, prosecutors and other justice system staff, scheduled for 2015, and development of a training programme on preventing and recognizing racism, xenophobia and related forms of intolerance in schools.

³ Available in Spanish and English (long version and abbreviated version):
http://explotacion.mtin.gob.es/oberaxe/inicio_descargaFichero?bibliotecaDatoId=4054,
http://explotacion.mtin.gob.es/oberaxe/inicio_descargaFichero?bibliotecaDatoId=4055.

⁴ Latest report: http://explotacion.mtin.gob.es/oberaxe/inicio_descargaFichero?bibliotecaDatoId=4056.

6. The 2014 report⁵ on the evolution of racism, xenophobia and other related forms of intolerance reveals that Spanish society is moving towards greater tolerance and acceptance of immigration, even in an unfavourable economic environment. The positive impact of the years of cohabitation that is now observable has brought a certain decline in unsubstantiated prejudice closer connections between migrants and their host society. The report highlights the increase in public support for judicial penalties for those behind expressions of intolerance or racist or xenophobic insults. The economic and financial crisis also appears not to have contributed to any increase in public acceptance of political parties that are inspired by racist or xenophobic ideology.

7. Directorate General of the Police Circular No. 2/2012, on identity checks, stipulates that no categorization or classification shall be established when a person's identity is checked. The Circular also clearly states that the use of identity checks should be proportionate, that checks should be performed "in a respectful and courteous manner that minimizes the impact on the individual concerned", and that checks "which may be considered unnecessary, arbitrary, abusive and could constitute an abuse of authority" should be avoided. The Circular is included in the training plans of the National Police Force. The basic principles of policing set out in article 5.1 of Organic Act No. 2/1986 expressly stipulate that police activity should be uninfluenced by discrimination of any form on the grounds of race, religion or opinion. In the National Police Force's Code of Ethics (2013), the principle of non-discrimination is qualified as a core value of policing.

Reply to paragraph 4 of the list of issues

8. Act No. 3/2012, of 6 July, on urgent measures for the reform of the labour market, established the mechanisms necessary for a new employment culture that facilitates women's participation in the labour market. New measures introduced included rebates on the social security contributions of companies which hire women and the elimination of certain categories from the job classification system in order to guarantee non-discrimination against women. The rebates rise when women are employed in professions in which they are less well represented.

9. Action point No. 4 of the Spanish Activation for Employment Strategy 2014–2016 is focused on equal opportunities in access to employment, especially in those sectors where women are underrepresented. Annual objectives for the Strategy and the indicators to be used to assess the extent to which these objectives are met are set out in the Annual Plan for Employment Policy adopted in 2014.

10. The Strategic Plan for Equal Opportunities 2014–2016 adopted by the Council of Ministers on 7 March 2014 is the instrument through which the Government defines objectives and priority measures for eliminating any residual gender-based discrimination and achieving equal opportunities for women and men. The Plan, which is supported by a budget of 3,127 million euros and includes an assessment and follow-up programme, encompasses a total of 224 measures, spread over three core areas: employment, work-life balance and gender-based violence. It also envisages measures to improve women's participation in economic and social fields, promote equality in the education system and mainstream equality of treatment and opportunities in all Government policies. Action point No. 1 of the Strategic Plan on Equal Opportunities, which will be implemented by means of a special plan for equality between women and men in the workplace and the elimination of wage discrimination, has the following priority objectives: to prevent gender-based discrimination in access to employment; to address the gender pay gap; to promote equal treatment and opportunities between women and men in business; to enhance the

⁵ Due to be published in June 2015.

employability of women from particularly vulnerable groups; to nurture female entrepreneurship; and to promote equal treatment and opportunities in public-sector employment.

11. Equal opportunities in business: grants for implementing measures and plans that promote equality are awarded annually to small and medium enterprises. Companies that demonstrate excellence in their policies for promoting equal opportunities between women and men are awarded the prestigious “Equality in the Enterprise” accolade (currently held by 92 businesses and enterprises). A network of “Equality in the Enterprise” companies was set up in 2013 to give award recipients a forum for exchanging views and sharing good practices. Free advice and information on formulating plans and measures to promote equality in enterprises are available at the website www.igualdadenlaempresa.es. Act No. 31/2014 amending the Corporate Enterprises Act, which requires companies to set themselves specific targets for equal participation and to communicate the measures taken to achieve this end, was adopted at the end of 2014. February 2015 marked the adoption of the new Code of Good Governance for Listed Companies, under which companies are urged to ensure that nominations for board appointments and reappointments favour diversity in knowledge, expertise and gender and that their board member selection policies support the goal of having women occupy no less than 30 per cent of seats on the board of directors by 2020. To foster a more even balance of men and women in senior management positions in the private sector, in 2014 the authorities concluded 73 cooperation agreements with leading companies in a drive to increase women’s representation in leadership positions and on management committees and boards of directors over the next four years. The “Promociona” programme promoting the appointment and promotion of talented women in business was launched with this same end in mind.

12. According to the latest annual figures published by the National Statistics Institute, the gender pay gap (the average difference, in percentage terms, between the hourly earnings of women and the hourly earnings of men) was 17.25 per cent in 2012. Working conditions for women and men depend on the area of work in question and are not the same in all economic activities. The difficulty inherent to horizontal segregation is the correlation which exists between sectors with a high concentration of women workers and inferior working conditions (in the form of lower wages and high levels of temporary and part-time employment). With regard to vertical segregation, the high concentration of women in occupations classified as “elementary” (i.e. jobs requiring a lower skills level) is striking; women account for 62.5 per cent of all persons in such occupations. Measures taken to address wage disparities between men and women and the occupational segregation of women in low paid jobs include the following:

- The next Special Plan for Equality between Women and Men in the Workplace and against Wage Discrimination, which will include, as specific priority goals: preventing and addressing the gender wage gap; promoting equal treatment and opportunities for women and men in the private sector; and promoting equal treatment and employment opportunities in the public sector;
- The development and dissemination of a self-evaluation tool for measuring the gender pay gap that enables companies to identify wage disparities;⁶
- In 2013 the Ministry of Health, Social Services and Equality and the Ministry of Employment and Social Security entered into an agreement to ensure that

⁶ The tool was launched in February 2015 and can be downloaded free of charge at www.igualdadenlaempresa.es.

effective equality between women and men in business is monitored on an ongoing basis;

- A study has been carried out to investigate the possibility of formulating a synthetic indicator of the gender pay gap;
- Sensitization and information-dissemination activities have been carried out to raise awareness of the gender pay gap;
- Grants are available to fund innovative, instructive and educational activities that contribute, inter alia, to progress towards reducing the gender pay gap.

Right to life, prohibition of torture and other cruel, inhuman or degrading treatment, and combating impunity (arts. 2, 6 and 7)

Reply to paragraph 5 of the list of issues

13. Organic Act 2/2010, of 3 March, on sexual and reproductive health and voluntary termination of pregnancy guarantees the right to voluntary termination of pregnancy, subject to the conditions established therein, which should be interpreted in the manner most favourable for the protection and enjoyment of women's fundamental rights. Voluntary termination of pregnancy is included in the catalogue of common services available under the National Health System in the following circumstances:

- On the request of the pregnant woman, within the first 14 weeks of gestation, provided that the woman has been informed of the entitlements, allowances and State assistance available to mothers and at least three days have elapsed from the date on which this information was provided and the date on which the procedure is performed;
- Exceptionally, a pregnancy may be terminated on medical grounds when any of the following circumstances apply: (a) when the pregnancy does not exceed 22 weeks and there is a serious risk to the life or health of the pregnant woman, and this risk is documented in a medical report issued prior to the termination by a medical specialist other than the doctor who performs or oversees the procedure. In cases where the mother's life is at risk, the requirement for a medical report may be waived; (b) when the pregnancy does not exceed 22 weeks and there is a risk of serious foetal abnormalities, and this risk is documented in a medical report issued prior to the termination by two medical specialists other than the doctor who performs or oversees the procedure; (c) when foetal abnormalities incompatible with life are identified and this is documented in a prior medical report issued by a medical specialist other than the doctor who performs the procedure, or when an extremely serious, incurable illness is detected in the foetus at the time of diagnosis, and this is confirmed by a medical committee.

14. The National Health System guarantees access to safe and effective contraceptive methods to prevent unwanted pregnancies. Emergency contraception is freely available without prescription. The overarching aim of the 2011 National Reproductive and Sexual Health Strategy is to ensure quality in sexual and reproductive health care and accessible services.

15. The specific curriculum content relating to sex education is covered in the first and third years of compulsory secondary education. Pursuant to Royal Decree No. 1105/2014, of 26 December, establishing the core curriculum for compulsory and upper (baccalaureate) secondary education, the following content is taught and assessed: human reproduction; anatomy and physiology of the reproductive system; physical and emotional changes in adolescence; the menstrual cycle; fertility, pregnancy and childbirth; analysis of different contraceptive methods; methods of

assisted reproduction; sexually transmitted diseases and their prevention; the human sexual response; sex and sexuality; and sexual health and hygiene. Standards of learning that may be assessed include adolescents' capacity to act, to decide and to defend their sexuality and the sexuality of their friends and family.

Reply to paragraph 6 of the list of issues

16. The general guidelines for action set out in Organic Act No. 2/1986, of 13 March, on security forces and law enforcement agencies are fully respectful of the principles established in the Declaration on the Police and the European Code of Police Ethics (both issued by the Council of Europe), as well as with the Code of Conduct for Law Enforcement Officials, adopted by the General Assembly of the United Nations. Possible violations of these texts are investigated according to the procedures set forth in Organic Act No. 12/2007, of 22 October, on the disciplinary system of the Civil Guard, and Organic Act No. 4/10, of 20 May, on the disciplinary system of the National Police Force. In the case of more serious violations, the provisions of the Criminal Code are applied. In cases of torture committed by a State authority or official (article 174 of the Criminal Code), if the attack is serious, a prison term of between 2 and 6 years is imposed. Less serious cases carry a prison term of between 1 and 3 years. In addition to these sentences, the law provides for absolute disqualification from office for 8 to 12 years. If as a result of the offences, the victim or a third party also suffers injury or damage to their life, physical integrity, health, sexual freedom or property, the acts shall also carry a separate penalty corresponding to the particular offence committed.

17. In addition to the oversight exercised by the senior officers of each security body, internal affairs units ensure due compliance with the regulations and codes of conduct that members of the State security forces and law enforcement agencies are required to respect and investigate any conduct that might be suspicious. The Inspectorate for Security Personnel and Services attached to the State Secretariat for Security of the Ministry of the Interior is responsible for monitoring and evaluating the operation of the services, offices and units of the Directorate General of the Police and Directorate General of the Civil Guard and the conduct of members of the respective forces. In the final instance, the judicial bodies are responsible for hearing and pronouncing judgement on any acts committed by members of State security forces or law enforcement agencies that might constitute a criminal offence. The Ombudsman's Office may request information or ask for investigations to be carried out, as deemed necessary, and take steps to ensure criminal or disciplinary accountability. The Office may also make unannounced visits to police stations in which foreign nationals are being detained.

18. Under Spanish criminal law, compensation for victims is part of the civil liability arising from the commission of an offence and compensation issues are dealt with during the criminal proceedings, unless the victim reserves the right to seek financial compensation in a separate civil action. Thus, unless the right to civil action is expressly reserved, all convictions served for serious or minor offences should state whether civil liability is ruled to exist, whether compensation is due and, where possible, the amount of the award, or, at the very least, if the loss or injury has not yet been determined, the basis for calculating the award. Victims of torture may also receive compensation if the perpetrator has been the subject of non-criminal disciplinary proceedings. However, this compensation is awarded not as part of the settlement agreement reached in the disciplinary proceedings but through a separate procedure that has to be initiated expressly for this purpose.

19. Since 2010 pardons have been granted to three police officers convicted of offences of torture. In all three cases the pardons were partial. The unserved portions

of the offenders' custodial sentence were commuted to a fine equivalent to two years and their disqualification was commuted to suspension. Granting a pardon does not imply a change in the perception, classification, seriousness or social repercussions of an offence of any kind. The guilt of the convicted person is unaffected by the granting of a pardon. The only consequence of a pardon being granted is to alleviate the effect of a specific sentence.

Reply to paragraph 7 of the list of issues

20. In 2013 there were seven complaints of ill-treatment in migrant holding centres. Five of these are closed, in one no legal action was taken, and in the other all officials accused were acquitted. In 2014 there were seven complaints in migrant holding centres, of which four have been closed and three are in the investigation phase. Royal Decree No. 162/2014, of 14 March, approving the internal operating regulations for migrant holding centres, fleshes out the system of judicial guarantees and oversight for these centres by:

- Establishing the position of due process judge, whose role is to ensure that the rights of foreign nationals are respected while in detention;
- Establishing the right of detainees to contact NGOs active in migrant protection and the right of NGOs to visit holding centres;
- Providing that units of the National Police Force may carry out inspections of the centres and their staff. The Inspectorate for Security Personnel and Services may also be involved in the oversight and inspection of centres;
- Facilitating the work of national and international human rights organizations authorized to visit and carry out inspections at centres;
- Stipulating, in article 16 (b), that: "Detainees shall be called by their name, unless the person concerned expressly indicates to the contrary."

21. On 6 February 2014, 15 immigrants drowned in Moroccan waters while attempting to reach Spanish territory illegally, during a group attempt to penetrate the Spanish-Moroccan border area. The bodies of 10 of the deceased were recovered in Morocco. The bodies of the remaining 5 fatalities were located and recovered at sea off the coast of Ceuta (Spain), having probably been carried into Spanish territorial waters by sea currents. The death of the 15 immigrants is being investigated in preliminary inquiry No. 123/2014 initiated by Ceuta Court of First Instance and Investigation No. 6 and is currently pending adjudication.

Reply to paragraph 8 of the list of issues

22. The Private Security Act, which entered into force on 4 June 2014, expressly stipulates that private security services and functions shall be provided in accordance with the Constitution and other in-force legislation, including international standards for the protection of human rights. The Act is the first legal text to establish guiding principles for action to supplement the Code of Ethics, which is currently regulated by the Private Security Regulations and Order INT/318/2011 on private security personnel. Future regulations governing private security will include a system of penalties and sanctions to prevent and punish conduct that violates the legal provisions.

Reply to paragraph 9 of the list of issues

23. Persons with disabilities may undergo sterilization only upon completion of a judicial process in which all safeguards providing protection for persons with disabilities who have reduced legal capacity are respected.

Reply to paragraph 10 of the list of issues

24. Past human rights violations: Judgements No. 75/2014 and No. 478/2013 of the Provincial Court of Madrid both confirmed that criminal proceedings are not the proper avenue for seeking satisfaction for the claims of complainants (in the cases in question, requests for exhumation of the remains of family members buried in the Valle de los Caídos so that they could be buried elsewhere). However, these judgements did not simply order the cases closed and prevent any further investigation. In addition, they identified litigation in the administrative court system as the appropriate course of action in the Spanish legal system, this being the remedy provided for in Historical Memory Act No. 52/2007. The 1977 Amnesty Act is not a “full-stop” law promulgated by the dictatorship in order to shield itself from justice, but a law adopted by democratically elected parliamentarians who were fully aware of the importance of the action they were taking. The Amnesty Act provides for the extinction of criminal responsibility both for those opposing the dictatorship and for those who supported it, and was underpinned by a broad consensus on the part of all political forces regarding both of those dimensions, as attested to by the parliamentary debates that preceded its adoption, the statements made by members of the opposition parties and the political commentaries that followed. All commentaries and statements make numerous references to the desire for reconciliation, and to the conviction that reconciliation could only be achieved through pardon. It was this desire and this conviction that led to the Amnesty Act being passed by nearly all democratically elected parliamentarians. The Spanish Criminal Code provides that: “Crimes against humanity, genocide and crimes committed against protected persons and property during an armed conflict, except for those punishable under article 614, shall not, under any circumstances, be subject to a statute of limitations” (art. 131.4). The Historical Memory Act does not provide for the establishment of a Commission of Inquiry.

Reply to paragraph 11 of the list of issues*Regulatory framework*

25. Noteworthy measures include:

- Free legal aid: Royal Decree-Law No. 3/2013, which modified the schedule of legal fees and made provision for changes in the free legal aid system, established the right of victims of gender-based violence, regardless of their means, to receive free legal aid in cases related to the harm that they have suffered. The bill on free legal aid, if passed, will reaffirm the right of all victims of gender-based violence to receive free legal aid, regardless of their ability to pay, and will require that legal counsels representing and advising such victims must be specialists in that field;
- Universal justice: Organic Act No. 1/2014 of 13 March expands the list of offences that can be prosecuted by the Spanish courts even if they have been committed on foreign soil. That list includes gender-based violence;
- Mutual recognition of criminal court decisions: Organic Act No. 6/2014 and Act No. 23/2014 incorporate several framework decisions of the European Union and Directive 2011/99/EU on the European Protection Order;
- Amendment of the Criminal Code: The definitions of several new offences in the area of gender-based violence have been introduced: forced marriage, stalking and harassment, unauthorized distribution of private recordings or images obtained with the consent of the victim when doing so constitutes a violation of

privacy; and tampering with electronic devices used to monitor compliance with restraining orders;

- Bill on the legal status of victims: This bill refers to victims of violence in general and victims of gender-based violence, in particular. It broadens the definition of a victim to include both direct and indirect victims and contains a long list of procedural and other rights of crime victims.

Inter-institutional coordination

26. Noteworthy measures include:

- The Government Delegation on Gender-based Violence, together with the autonomous regions, developed a joint proposal for the improvement of inter-institutional coordination and the implementation of a personalized plan for victims of gender violence. The proposal was approved on 17 June 2013.⁷ Six regional projects designed to achieve the objectives set out in the proposal have been funded;
- The joint directive issued by the Ministry of Justice, the Ministry of the Interior, the Ministry of Finance, the Ministry of Employment and Social Security and the Ministry of Health, Social Services and Equality concerning the operation of the Coordination Units and the Units for the Prevention of Violence against Women of the Government Delegations and Sub-Delegations and the Island Directorates, adopted on 13 June 2013:⁸ These units, which report to the Government Delegation on Gender-based Violence, are located throughout the country and ensure the coordination of the work of all local and regional authorities with responsibilities in the area of gender violence. The directive concerns the formation of a national network that will link all of these units as a step towards achieving one of the priority objectives of the National Strategy for the Eradication of Violence against Women 2013–2016, which is to deliver more effective, personalized services to women victims of gender violence and their children.

Awareness-raising and training

27. Noteworthy measures include:

- Awareness-raising and information campaigns: These campaigns entail activities dealing with new technologies, youth activities and targeted initiatives focusing on health and pharmaceuticals and on education;⁹
- Awards for good practices at the local level for the prevention of gender-based violence;
- Introduction of the “Companies for a Society Free of Gender-based Violence” initiative: This initiative, which was introduced in 2012, currently has 56 large corporate participants that have signed a cooperation agreement focusing on awareness-raising and the socio-occupational integration of female victims;

⁷ <https://www.msssi.gob.es/ssi/violenciaGenero/Documentacion/medidasPlanes/DOC/PropuestaComunCoordinacion1.pdf>; <http://www.eeagrants.spain.msssi.gob.es/infoProyectos/SeminarioBuenasPracticas.pdf>.

⁸ <http://www.msssi.gob.es/ssi/violenciaGenero/DelegacionGobiernoVG/DOCS/InstruccionConjunta2013.pdf>.

⁹ Master Plan for Coexistence and Improvement of Safety in and around Schools. Website for school councils: <http://www.aulaviolenciadegeneroenlocal.es/consejosescolares>.

- Website on prevention and support resources for victims of gender-based violence (WRAP):¹⁰ This website provides access to the various resources for preventive and protection services provided by government offices, women's organizations and other social organizations to the public at large and to victims of gender-based violence;
- A range of training activities focusing on gender-based violence are provided for personnel working in the administration of justice.

Protection measures and assistance for victims of gender-based violence

28. Noteworthy measures include:

- The 016 service for legal advice and information on gender-based violence: Since 2013, people with hearing impairments have been able to avail themselves of the 016 service, which has a sign language functionality;¹¹
- Support and protection hotline for victims of gender-based violence (ATENPRO):¹² Since 2013, several improvements have been made in the hotline to increase its accessibility for women with hearing disabilities and for women with visual impairments, to provide access to simultaneous interpretation services provided by a company 24 hours a day, 365 days a year, and to increase its accessibility in rural areas with limited or no coverage;
- Remote tracking system for monitoring compliance with restraining orders issued to prevent gender-based violence;¹³
- Joint Protocol on Health-care Action to Address Gender-based Violence:¹⁴ This protocol was adopted in 2012 and is designed to provide health-care personnel at all health centres with practical guidelines on comprehensive care for battered women. The protocol includes guidelines for producing injury reports and guidelines concerning the dealings of health institutions with the courts, law enforcement and security forces, and the Public Prosecution Service;
- Core Protocol on the Prevention of Child Abuse in the Family: Originally issued in 2007, the protocol was updated in 2014 to cover gender-based violence.¹⁵ References to other forms of violence against girls, such as female genital mutilation and forced marriages, were also added;
- National Police Force Strategic Plan for 2013–2016: The objective of protecting the most vulnerable social groups from crime is pursued by monitoring potential aggressors more closely and taking more preventive action with the assistance of personnel specialized in combating domestic, gender-based and sexual violence. The plan also provides for the establishment of Family and Women's Units;
- General scheme of action of the State security forces and law enforcement agencies: All the units involved in providing treatment and prevention services and in implementing public safety measures work in conjunction with units specializing in the treatment of victims and in follow-up actions dealing with

¹⁰ <http://wrap.seigualdad.gob.es/recursos/search/SearchForm.action>.

¹¹ http://www.msssi.gob.es/ssi/violenciaGenero/laDelegacionInforma/pdfs/Personas_Sordas_016_1.pdf.

¹² <http://www.msssi.gob.es/ssi/violenciaGenero/laDelegacionInforma/pdfs/Atenpro.pdf>.

¹³ <http://www.msssi.gob.es/ssi/violenciaGenero/Recursos/DispositivosSeguimiento/Home.htm>.

¹⁴ <http://www.msssi.gob.es/ssi/violenciaGenero/violenciaGenero/protocoloActuacion/ambSanitario/home.htm>.

¹⁵ http://www.msssi.gob.es/ssi/violenciaGenero/laDelegacionInforma/pdfs/Protocolo_Maltrato_Infantil_.pdf; http://www.observatoriodelainfancia.msssi.gob.es/productos/pdf/Protocolo_Maltrato_9_de_junio.pdf.

cases of violence. Victims receive specific, personalized treatment and are referred to specialized public or private institutions providing assistance and protective services. Protection measures are adopted as necessary. Criminal acts of violence are investigated;

- The System for Comprehensive Monitoring of Cases of Gender-based Violence (VioGen):¹⁶ The system is a unique experiment begun in 2007 that has successfully established a dense network of institutions, resources and information. Advance risk assessments make it possible to monitor and provide speedy, full protection to battered women and their children anywhere in the country. The State Secretariat for Security of the Ministry of the Interior serves as the central administrative body for this system.

Table 1
VioGen activities

<i>Activities and results</i>	<i>26/07/2007– 31/12/2012</i>	<i>26/07/2007– 31/12/2013</i>	<i>26/07/2007– 31/12/2014</i>
Female victims assisted by VioGen	258 144	311 502	354 484
Active cases involving monitoring and, as necessary, police protection	76 689	64 068	52 488
Risk assessments	1 104 263	1 404 865	1 738 575

Source: System for Comprehensive Monitoring of Cases of Gender-based Violence (VioGen).

Table 2
Complaints received and penalties imposed for acts of violence against women between 2010 and 2014¹⁷
Complaints received

	<i>Filed by the victim</i>	<i>Filed directly by family members</i>	<i>Police reports</i>	<i>Injury reports</i>	<i>Assistance services/other third parties</i>	Total
2010	11 158	487	106 594	14 640	1 226	134 105
2011	12 062	450	124 051	15 290	1 762	134 002
2012	10 495	435	100 688	14 743	2 182	128 543
2013	12 270	625	95 236	14 363	2 400	124 894
2014	7 344	527	74 612	11 204	1 624	95 311
Total	53 329	2 524	501 181	70 240	9 194	616 855

Penalties

	<i>Acquittals</i>	<i>Convictions</i>
2010	4 434	14 967
2011	4 339	14 551
2012	4 789	14 147

¹⁶ <http://www.interior.gob.es/es/web/servicios-al-ciudadano/violencia-contra-la-mujer/estadisticas>.

¹⁷ Source: Observatory on Domestic and Gender-based Violence of the General Council of the Judiciary. Figures shown for 2014 cover the first three quarters.

	<i>Acquittals</i>	<i>Convictions</i>
2013	4 639	13 322
2014	3 398	10 668
Total	21 599	67 655

29. Responsibility for the provision of comprehensive assistance to female victims of gender violence and their minor children lies with the autonomous regions and the cities of Ceuta and Melilla. The Ministry of Health, Social Services and Equality provides a yearly budget allocation for this purpose. The Sectoral Conference on Equality of 21 July 2014 established criteria for the award of a loan totalling €4.3 million, to be distributed as follows: €3.1 million for the development of programmes and the delivery of services designed to ensure that female victims of gender-based violence enjoy their right to comprehensive social assistance, and €1.2 million for specialized assistance to minors exposed to gender-based violence. The Government Delegation on Gender-based Violence is the direct provider of certain services designed to uphold the right to information and to ensure the availability of victim assistance, support and protection measures (see para. 26). The Delegation coordinates all the resources and services provided by the various public agencies and leverages the cross-cutting impacts of the work carried out by the public authorities in the area of gender violence.

30. Residential solutions for victims of gender-based violence are used only when necessary, as the goal is for women to be able to remain in their homes and be safe there. However, when that is not possible (for their safety or because of other aspects of their situation), the authorities can have recourse to Spain's 46 emergency centres (an on-the-spot, short-term option), 143 shelters and 175 transitional homes (an intermediate step towards independent housing).¹⁸

31. The main findings of the 2009 report on the results of the 2007–2008 National Plan for Awareness-Raising and the Prevention of Gender-based Violence are as follows:¹⁹

(a) Professional performance (justice, security, health, social services, education and communication): Thanks to the measures taken as part of this plan, a great deal of progress was made in the four major focus areas (training, development of specialized units and tools, coordination, and professional responsiveness). The resulting improvement in professional responsiveness has fostered greater public trust in the country's institutions. This is reflected in increases in the numbers of complaints (12.5 per cent), injury reports issued by health-care services (24.1 per cent) and court-ordered protection measures;

(b) Action in the area of knowledge-building, information and mobilization: Implementation of this plan has entailed the preparation of a number of studies that have added to the existing store of knowledge about gender-based violence. This information has then been communicated to professionals and to society at large and has helped to mobilize social networks and forums that have paved the way for changes in prevailing attitudes about this form of violence.

¹⁸ Annex I to the Informe de Evaluación a los seis años de entrada en vigor de la Ley Orgánica 1/2004 en el ámbito autonómico (progress report six years after the entry into force of Organic Act No. 1/2004 in the autonomous regions) (pp. 68 et seq.); <http://www.msssi.gob.es/ssi/violenciaGenero/Documentacion/seguimientoEvaluacion/home.htm>.

¹⁹ <http://www.msssi.gob.es/ssi/violenciaGenero/Documentacion/seguimientoEvaluacion/home.htm>.

32. To address strategic planning needs for the coming years, the National Strategy for the Eradication of Violence against Women 2013–2016²⁰ was adopted by the Council of Ministers on 26 July 2013. An evaluation of the Strategy's implementation is to be undertaken at the end of that initiative. The Strategy sets out 284 action points involving all public agencies and authorities. It is structured around four broad objectives and three cross-cutting areas:

- Broad objectives:
 - Breaking the silence that abets abuse;
 - Improving institutional responsiveness, developing individualized service plans and making progress towards the establishment of a single window;
 - Providing support for children and women who are particularly at risk of gender-based violence;
 - Raising awareness of other forms of violence against women;
- Cross-cutting areas:
 - Specialized training and awareness-raising for people working in this field;
 - Improved coordination, networking and attainment of operational excellence;
 - Quality, evaluation, knowledge and continuous improvement.

33. In line with the cross-cutting nature of policies for the prevention and eradication of gender-based violence, the plans and strategies developed by ministerial departments that address gender-based violence are cross-referenced with the National Strategy.

Prohibition of trafficking in persons (art. 8)

Reply to paragraph 12 of the list of issues

34. In 2009 the Council of Ministers approved a comprehensive plan for combating human trafficking for purposes of sexual exploitation. This plan provides for action in such areas as awareness-raising, prevention and investigation, education and training, victim support and protection, and legislative and procedural measures. This plan has been improved upon by a new plan for the period 2014–2016 which contains specific measures and practices for adoption by stakeholders involved in the detection, identification, investigation and prosecution of these offences. These plans have resulted in more intensive police operations directed at criminal organizations or groups that commit this kind of offence, the arrest of more members of such groups, the identification of more victims and more inspections of sites at which potential victims of sexual exploitation are likely to be found. A trafficking database, drawing on information provided by the police, has also been set up. Although directed action was already being taken to combat trafficking in human beings, it was not until the entry into force of Organic Act No. 5/2010, which amended the Criminal Code, that trafficking in human beings was made a separate offence in its own right (art. 177 bis).

35. Legislative changes in recent years, particularly the amendment of the Aliens Act by Organic Act No. 10/2011, the adoption of its implementing regulations (Royal Decree No. 557/2011) and the adoption of the Framework Protocol for the Protection of Victims of Trafficking (28 October 2011), have shaped a general legal framework for victim protection. All human trafficking victims are guaranteed comprehensive

²⁰ <http://www.msssi.gob.es/ssi/violenciaGenero/EstrategiaNacional/pdf/EstratgNacion.pdf>.

assistance regardless of their legal status. They are also given a rest and recovery period, which enables foreign victims who are in an irregular situation to free themselves of the influence exerted by their traffickers, begin their rehabilitation and decide whether to cooperate with the authorities in their investigation. When this period is over, they may be authorized to remain in the country if they have cooperated with the authorities in the investigation and if it is determined that the victim's personal situation warrants it. Victims of human trafficking are entitled to free legal aid (Royal Decree-Law No. 3/2013).

36. The following statistics go back only as far as 2011 because it was not until the entry into force of Organic Act No. 5/2010, on 23 December 2010, that human trafficking became a separate offence under the Criminal Code.²¹

Table 3
Statistics on human trafficking

	2011	2012	2013
Complaints ²²	55	39	70
Investigations ²³	87	55	97

	2010	2011	2012	2013	2014 (until October)
Witnesses protected	171	167	155	204	134

	2010	2011	2012	2013	2014 (until November)
Recovery periods granted*	24	66	68	99	51
Recovery periods offered*	228	756	669	777	537

* For victims of human trafficking (in accordance with art. 59 bis of the Aliens Act).

	2011	2012	2013
Victims ²⁴	234	125	264

	2011	2012	2013
Women	217	123	263
Men	17	2	1

	2011	2012	2013
–18	7	6	12
18–22	51	43	75
23–27	77	23	83

²¹ Source: Centre for Intelligence on Terrorism and Organized Crime (CITCO).

²² The figures that appear below correspond solely to complaints filed by victims.

²³ Investigations by State security forces and law enforcement agencies that have led to judicial inquiries based on the police reports.

²⁴ Persons identified by the police during an investigation that has led to the referral of a police report to the courts are considered victims.

	2011	2012	2013
28–32	55	18	50
33–37	24	17	24
38–42	8	11	8
43–47	8	5	9
48–52	3	2	3
53 and older	1	0	0

2011		2012		2013	
Nationality	Number of victims	Nationality	Number of victims	Nationality	Number of victims
Spain	8	Romania	34	Romania	129
Romania	65	Paraguay	34	Nigeria	34
Russian Federation	49	Brazil	15	Paraguay	32
Bulgaria	27	China	7	Spain	15
Nigeria	18	Nigeria	6	Brazil	10
Paraguay	18	Bulgaria	2	China	9
Brazil	15	Ecuador	2	Dominican Republic	8
Dominican Republic	6	Equatorial Guinea	2	Bulgaria	6
China	4	Russian Federation	2	Bosnia and Herzegovina	3
Morocco	3	Ukraine	2	Côte d'Ivoire	3
Lithuania	2	Algeria	1	Morocco	3
Nicaragua	2	Colombia	1	Algeria	2
Ukraine	2	Morocco	1	Cameroon	1
Venezuela (Bolivarian Republic of)	2	Dominican Republic	1	Colombia	1
Albania	1	Unknown	15	Guinea	1
Cuba	1			Italy	1
Ecuador	1			Netherlands	1
Estonia	1			Democratic Republic of the Congo	1
Unknown	9			Czech Republic	1
				Russian Federation	1
				Venezuela (Bolivarian Republic of)	1
				Unknown	1

Right to liberty and security of person, rights of persons deprived of their liberty, right to a fair trial and due process (arts. 9, 10 and 14)

Reply to paragraph 13 of the list of issues

37. The system of incommunicado detention and imprisonment is being reviewed in the course of preparations for the amendment of the Criminal Procedure Act, which will incorporate Directive 2013/48/EU into Spanish law. This directive deals with the right of access to a lawyer in criminal proceedings and in European arrest warrant proceedings and with the right to have a third party informed upon deprivation of

liberty and to communicate with third persons and with consular authorities while deprived of liberty. The draft bill that would amend the Criminal Procedure Act in order to expedite legal proceedings, strengthen procedural safeguards and regulate technological methods of investigation was approved by the Council of Ministers on 5 December 2014. If passed, this bill will amend article 527 of the Criminal Procedure Act to state expressly that incommunicado detention is an exceptional regime which may be applied only pursuant to a reasoned decision by a judge and that the deprivation of certain rights is not automatic but “discretionary”, which is to say that one or more of the following courses of action may be ordered: having the person’s lawyer appointed by the court; not entitling the person to meet with his or her lawyer in private; not allowing the person to communicate with all or any of the persons with whom he or she would ordinarily be entitled to communicate, with the exception of judicial authorities, the prosecution service and the forensic medical examiner; not giving the person access to records of proceedings. In addition, these exceptional measures are permissible only under the circumstances provided for in Directive 2013/48/EU: (a) where there is an urgent need to avert serious adverse consequences for the life, liberty or physical integrity of a person; (b) where immediate action by the investigating authorities is imperative to avoid placing criminal proceedings in substantial jeopardy.

38. Several of the courts with jurisdiction over terrorist crimes currently offer additional guarantees in the form of recorded police interviews and additional medical oversight. These measures were formally set forth in a decision handed down by the National High Court of December 2006 and have been applied in numerous cases of incommunicado detention.

Reply to paragraph 14 of the list of issues

39. Migrant holding centres have a medical service that is staffed by a doctor and a health technician or nurse. The level of service that they provide is on a par with the services made available at any other primary health-care and pharmaceutical centre. In addition to its specific health-care functions, this service is responsible for inspecting sanitary facilities, overseeing the preparation and distribution of food, inspecting the heating, lighting and ventilation systems of the buildings, and conducting regular check-ups and epidemic prevention services. Upon admission, all prisoners receive a basic personal hygiene kit, towels and bedclothes, which are changed periodically. In recent years, the average occupancy rate of the migrant holding centres has been around 40 per cent (36.71 per cent in 2014 and 42.40 per cent in 2013).

Aliens’ rights and the protection of children (arts. 13 and 24)

Reply to paragraph 15 of the list of issues

40. Spanish law provides for two different types of legal procedures under which an expulsion decision may be issued: (a) what are known as “return proceedings”, which apply to foreign nationals who are detained after having managed to cross the border illegally; and (b) deportation proceedings, applicable to persons who have been found on Spanish territory in an irregular situation. Organic Act No. 4/2000 on Rights and Freedoms of Aliens in Spain provides for a number of guarantees in connection with those procedures, such as the right to free legal aid, the right to the assistance of an interpreter and the rules under which these procedures cannot be applied to a pregnant woman, if the expulsion would pose a risk to the pregnancy or the health of the mother, or in cases in which a request for international protection has been made. Denials of entry at the border — that is, when an immigrant is caught attempting to enter the country at an unauthorized border crossing but has not actually crossed the border — are a different matter. When border patrols turn people back at the border,

they do so in accordance with the principles of consistency, appropriateness and proportionality, and priority is always placed on assistance for vulnerable people. An amendment to Organic Act No. 4/2000 which will clarify the provisions applying to situations in which persons are turned back at the border is currently before parliament. It will introduce a more specific delineation of the procedures to be followed when preventing foreign nationals who are detected attempting to breach the borders of Ceuta or Melilla illegally. The amendment includes specific safeguards based on international human rights law and international protection obligations.

Reply to paragraph 16 of the list of issues

41. On 22 July 2014, the Attorney General's Office, the Ministry of Justice, the Ministry of Employment and Social Security, the Ministry of Health, Social Services and Equality, the Ministry of the Interior and the Ministry of Foreign Affairs and Cooperation signed a framework protocol on procedures applying to the treatment of unaccompanied minors. Its purpose is to coordinate the actions of the institutions involved in locating foreign minors, identifying them, determining their age, providing child protection services and preparing the necessary documentation. The procedures provided for in the protocol are informed by the principle of the best interests of the child as delineated in the Convention on the Rights of the Child, general comment No. 6 on treatment of unaccompanied and separated children outside their country of origin and other international instruments.

42. The bill on the modification of the system for the protection of children and adolescents includes the following provisions with regard to foreign minors:

- They have the right to education, health care and basic social services and benefits on the same terms as Spanish minors;
- Public agencies will look after members of especially vulnerable groups, including unaccompanied foreign minors;
- Efforts will be made to search for the families of unaccompanied foreign minors and to return them to their families as long as that appears to be in the minors' best interests and does not place them or their families in an unsafe situation;
- When it cannot be ascertained that a given person is an adult, he or she will be treated as a minor for all legal purposes until such time as it may be proven otherwise.

43. Under the Act on the Rights and Freedoms of Aliens in Spain (art. 35.3), the Public Prosecution Service is responsible for ordering medical tests to determine the age of undocumented aliens whose status as a minor cannot be established with certainty. The sole aim of the cases initiated by the Public Prosecution Service in this regard is to decide, on a precautionary and urgent basis, whether the person concerned should be admitted to a child protection centre. The Public Prosecution Service's decision regarding the age of the person concerned is provisional; it can be amended if information is provided or circumstances arise that had not been taken into consideration at the time that the decision was adopted. In any event, the Public Prosecution Service's decision will be brought into line with any court ruling on the subject that is handed down. The objective of the Framework Protocol on Procedures in Relation to Unaccompanied Minors is to harmonize the procedures to be followed by all the agencies involved in caring for such persons and in conducting medical tests in order to determine their age.

44. There are currently entries on 645 unaccompanied minors in the city of Melilla in the Register of Unaccompanied Minors of the Central Aliens Register (ADEXTTRA) database. These minors are under the supervision of the child

protection authorities of Melilla and are entitled to the same safeguards as those extended to Spanish children.

Anti-terrorism measures, fair trials and due process guarantees (arts. 14 and 15)

Reply to paragraph 17 of the list of issues

45. The Spanish legal framework does not provide for judicial interpretations that broaden the concept of the crime of terrorism or of any other offence, as the Criminal Code states that “criminal laws shall not apply to cases other than those expressly covered herein” (art. 4.1). It also states that “there shall be no punishment for any act or omission that is not established by law as a crime or misdemeanour before its perpetration” (art. 1.1). In order for any given act to be determined to constitute the crime of terrorism, the legal criteria predefined in the Criminal Code must be met; they cannot be applied by analogy.

46. The Criminal Code has been amended on a number of occasions. Those amendments have dealt with the dissociation of the concept of terrorism from that of a terrorist organization, the establishment of new criminal offences, changes in penalties and the definition of the financing of terrorism as a separate offence. To address the newer forms of terrorism, a recently created working group comprising representatives of the Ministry of Justice and the Ministry of the Interior has prepared amendments to the bill on the reform of the Criminal Code. In addition, an agreement on these issues entered into by the governing party and the main opposition party has led to the formulation of a bill that would introduce sweeping changes in the Criminal Code. That bill is currently undergoing review on an urgent basis. The outcome of these initiatives is being awaited and will be the object of scrutiny with a view to the proposal of possible amendments to the reform bills.

Reply to paragraph 18 of the list of issues

47. In accordance with article 14, paragraph 5, of the International Covenant on Civil and Political Rights, the amendment of the Criminal Procedure Act that is now under consideration will rectify the lack of regulations governing appeals against decisions made by the provincial high courts and the Criminal Chamber of the National High Court. This amendment will make the initiation of appeals procedures the general rule. The Appeals Chamber of the National High Court will be established once the amendment has been passed into law, which should occur before the end of the current legislative session.

Reply to paragraph 19 of the list of issues

48. The bill which will amend the Criminal Procedure Act and the Judiciary Act by incorporating the contents of Directive 2010/64/EU on the right to interpretation and translation in criminal proceedings and Directive 2012/13/EU on the right to information in criminal proceedings, which is currently before parliament, will considerably limit *sub judice* confidentiality. Article 302 of the Criminal Procedure Act will be amended to read as follows:

“The parties to the proceedings may be apprised of and participate in all stages of those proceedings. However, in criminal cases, the court may, on the proposal of the Public Prosecution Service or of either party or on its own initiative, impose a full or partial confidentiality rule on all parties for no more than one month when doing so is necessary to: (a) avert a serious threat to the life, liberty or physical integrity of another person; or (b) prevent situations that may seriously jeopardize the outcome of the investigation or the trial. The

imposition of *sub judice* confidentiality must be lifted at least 10 days before the conclusion of the case.”

Reply to paragraph 20 of the list of issues

49. Act No. 10/2012, which governs certain legal and court fees, has been amended by Royal Decree-Law No. 1/2015 of 27 February to make fee waivers more widely available, particularly to natural persons. The Ministry of Justice undertook to review the bill on free legal aid that is currently before parliament. In so doing, it will weigh the observations of legal professionals and the ethical considerations raised by the bar association.

Freedom of opinion, expression and peaceful assembly, right to life, prohibition of torture and other cruel, inhuman or degrading treatment (arts. 6, 7, 19, 20 and 21)

Reply to paragraph 21 of the list of issues

50. The amendment of the Criminal Code and the bill on public security will not criminalize social protest; rather, they will ensure that the right to demonstrate and freedom of expression can be freely and peacefully exercised in a non-violent environment. The amendment of the Criminal Code provides a more precise definition of “disorderly conduct” which is based on the presence of a collective subject and the commission of acts of violence against objects and people. The criminal penalty applies only to those who, acting as a group or individually but as a member of a group, commit a breach of the peace by engaging in “acts of violence against people or objects” or by threatening to commit acts of violence and to those who instigate such acts. The amendment to article 557 of the Criminal Code concerns “disorderly conduct that occurs as a result of acts of violence”, with harsher penalties provided for in particularly dangerous cases, such as those involving weapons or explosives or the throwing of blunt objects or flammable liquids or their use in demonstrations or large rallies. In the same vein, the criminalization of the distribution or public dissemination of messages or slogans encouraging breaches of the peace is not in any way intended to criminalize political criticism or the expression of political opinions but rather to ensure that the expression of political criticism or opinions can take place in a spirit of violence-free dialogue. Under criminal law, incitement is a punishable offence only when it refers to particularly violent breaches of the peace (art. 559), as it is linked to the aggravating circumstances set forth in article 557 bis, namely, acts posing “a serious threat to a person’s life or health”.

Reply to paragraph 22 of the list of issues

51. Organic Act No. 2/86 on Security Forces and Law Enforcement Agencies states that, in the line of duty, in order to prevent serious, immediate and irreparable harm, security forces and law enforcement agencies will be guided by the “principles of consistency, appropriateness and proportionality in the use of available means” (art. 5). Police Intervention Units resort to force only after efforts of prevention and dissuasion have failed. In that event, an escalation of force procedure is followed in which the use of riot control equipment is a last resort. The circular of 3 September 2013 of the Office of the Commissioner-General for Citizen Security on the use of riot control equipment covers prohibited actions, grounds for the use of force (“situations in which police officers or other citizens are at risk”) and its purpose (to deter those who pose a risk to persons or property from acting); the guiding principle is always to cause the “least possible harm”. The use of this equipment is monitored by the authorities. In 2013, Police Intervention Units were present at 6,556 demonstrations,

6,469 of which (98.67 per cent) took place without incident. Incidents occurred in only 68 demonstrations, and in only 19 (0.289 per cent) was it necessary to use riot control equipment.

52. At the end of the demonstration of 25 September 2012 at the Atocha Commuter Station in Madrid, a group of between 400 and 500 people attacked the riot police and took refuge in the station. The Office of the Commissioner-General for Citizen Security ordered that a classified inquiry be conducted into those events. The investigation showed that the police had used reasonable force in repelling the attacks. A.J. reported that he had been assaulted by a police officer in front of the Congress of Deputies building during a demonstration on 4 August 2011 in Madrid; this led to the opening of a criminal case, which was closed in March 2012. When the first of the marchers in a demonstration that took place on 11 July 2012 reached the Ministry of Industry, they attacked the units guarding that government building. Thirty-six police officers were injured. The Provincial Intelligence Squad of Madrid conducted inquiries (No. 3792 of 11 July 2012) into these incidents, and their findings were turned over to the appropriate judicial authority.

53. Pursuant to Royal Decree No. 1484/1987, each officer must wear a badge bearing the officer's personal identification number above the upper right-hand breast pocket of his or her uniform. With respect to the markings identifying State security forces and law enforcement agencies, State Secretariat for Security Instruction No. 13/2007 states that: "their design and size shall be such as to enable them to be read from a distance of approximately 1.2 metres". In the case of serious disturbances in which members of the Police Intervention Units wear special protective gear, such as tactical vests, that cover their badges, the vests are to be marked with the police officer's staff identification number (order of the Directorate General of the Police).

Rights of persons belonging to minorities (arts. 2 and 27)

Reply to paragraph 23 of the list of issues

54. The Department for Assistance to Victims of Discrimination on Racial or Ethnic Grounds (see para. 3) deals with instances of racial discrimination against immigrants and members of ethnic minorities. In addition, in order to address the fact that discriminatory incidents are severely underreported, the Institute for Women and Equal Opportunities is developing a practical guide for persons who have faced discrimination and for judicial personnel.

55. The National Strategy for the Social Inclusion of the Gypsy Population in Spain 2012–2020 focuses on four areas: education, employment, housing and health. It sets numerical medium- and long-term targets, in addition to laying out complementary lines of action. In April 2014, the strategy's first operational plan, which covers 2014–2016, was adopted.

56. In the context of that strategy, the Gypsy Development Programme, launched in 1989 and administered by the Ministry of Health, Social Services and Equality, remains active. The programme includes the following components:

- Co-financing of comprehensive social intervention projects designed to assist the gypsy people and prevent their marginalization: These projects involve simultaneous action in the areas of social services, education, job training, health and housing, and the environment. In 2014, with €2,825,059.94 from State and local governments, 76 projects were co-financed that are serving approximately 120,587 users (53,572 men and 66,535 women);

- Cooperation of the Ministry with NGOs working with the gypsy population: In 2014, NGOs were invited to apply for grants financed by allocations from personal income tax receipts. The grants went to health promotion and education programmes for the gypsy population that have a particular impact on women and to programmes that promote the integration of the gypsy community into the larger society and the job market. This financing totalled €7,635,619.

57. The autonomous regions also have specific policies for the social inclusion of the gypsy population, and some have their own action plans. The gypsy population is mentioned explicitly in a number of the regional sectoral plans of most of the autonomous regions.

58. Notable progress has been made in the enrolment of gypsy children in nursery and primary school. Up to the age of 14, the school attendance rates of the gypsy population are very similar to those of the population as a whole. It is when gypsy children turn 15 that their rate of school attendance drops off sharply (by 30.8 percentage points). Although progress has been made with regard to regular attendance and families' attitudes about education, truancy rates for gypsy students in the compulsory secondary education cycle are still high (14.3 per cent) and are more so for girls (16 per cent) than for boys (12.8 per cent).²⁵ The National Strategy also focuses on raising the enrolment rate in secondary education for gypsy children between 13 and 15 years of age to 85 per cent in 2015 and 90 per cent in 2020, reducing dropout rates and increasing the percentage of gypsy students who receive high school diplomas.

59. The gypsy population in Spain has a high rate of economic activity (68.9 per cent).²⁶ This population group's levels of educational attainment and professional training are still low, however, and, as a result, many gypsies work in low-paying jobs under poor conditions. The most significant differences between the employment situation of the gypsy population and that of Spanish population as a whole have to do with the ratio of salaried workers to self-employed workers and with the share of persons employed as family help.²⁷ The differences by type of occupation and sector are striking, with a very high percentage of the gypsy population engaged in street vending (39 per cent 2005).²⁸ The economic crisis has driven up the unemployment rate in Spain by a multiple of 2.4 since 2005, but the unemployment rate for the gypsy population nearly tripled over the same period, reaching 37.5 per cent (8.9 percentage points higher than that of the general population).²⁹

²⁵ Fundación Secretariado Gitano (2013): *El alumnado gitano en Secundaria: un estudio comparado* (The gypsy student body in secondary schools: a comparative study). Madrid, National Centre for Education Innovation and Research/Ministry of Education, Culture and Sport.

²⁶ Their greater youth and earlier entry to the labour markets account for the difference. Fundación Secretariado Gitano and EDIS (2012): *Población gitana, empleo e inclusión social. Un estudio comparado: población gitana española y del este de Europa* (Gypsy population, employment and social inclusion: a comparative study: the Spanish and Eastern European gypsy populations), Madrid.

²⁷ The self-employed account for 35 per cent of the economically active gypsy population and 16.4 per cent of the total economically active population. Salaried workers account for 83.6 per cent of the total working population as opposed to 37.6 per cent of the gypsy population. Twenty-six per cent of the economically active gypsy population is working in a family business, compared to 0.7 per cent of the active population as a whole. (Data are drawn from the survey mentioned in the preceding note compared with data from the economically active population survey of the third quarter of 2011.)

²⁸ Fundación Secretariado Gitano and EDIS (2005): *Población gitana y empleo: un estudio comparado* (Gypsy population and employment). Madrid.

²⁹ Fundación Secretariado Gitano and EDIS. *Un estudio comparado: población gitana española y del este de Europa*. Madrid.

60. According to the most recent survey, as of 2007, 88.1 per cent of gypsies had housing of an acceptable standard; 3.9 per cent lived in blighted areas and another 7.8 per cent lived in badly rundown dwellings or in substandard housing.³⁰ These results indicate that substantial progress has been made since the time of the previous study, which was conducted in 1997, when 10 per cent of gypsy dwellings were shanties and 21.4 per cent were substandard. The next housing survey is scheduled for 2015–2016.

61. Pending publication of the latest study, scheduled for March 2015, the results of the previous one, which compared the findings of the national health survey for the gypsy population and the general population of Spain, show that the gypsy population has worse results for a range of indicators, with differences in health status, lifestyle and access to services.³¹

62. In February 2014, the Minister of Employment and Social Security appointed an independent expert as chairperson of the Forum for the Social Integration of Immigrants who has a great deal of experience in the area of migration. The Forum's website has been launched.³² Its membership is currently being renewed, with a public invitation having been sent out to all the organizations that meet the requirements set out in the Royal Decree.

Dissemination of information about the Covenant and its optional protocols (art. 2)

Reply to paragraph 24 of the list of issues

63. The Covenant and its optional protocols, along with the Human Rights Committee and its activities, including those relating to Spain, are covered in training and outreach activities undertaken by the Human Rights Office of the Ministry of Foreign Affairs and Cooperation. The periodic report of Spain was shared with the Ombudsperson (the national human rights institution) and with a wide spectrum of a highly representative sample of civil society organizations. It has also been presented, for informational purposes, to the Foreign Affairs Committee of the Congress of Deputies.

³⁰ Ministry of Housing and Fundación Secretariado Gitano (2008): *Mapa sobre vivienda y comunidad gitana en España* (Study of gypsy housing and the gypsy community in Spain). Madrid.

³¹ La Parra, D. (2009): *Hacia la equidad en salud. Estudio comparativo de las encuestas nacionales de salud a población gitana y población general de España, 2006* (Towards fairness in health: a comparative study of the national health surveys of the gypsy population and the general population of Spain, 2006). Madrid. Ministry of Health and Consumer Affairs and Fundación Secretariado Gitano.

³² www.foroinmigracion.es.