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Summary record of the 3175th meeting

Held at the Palais Wilson, Geneva, on Tuesday, 7 July, at 10 a.m.

Chairperson: Mr. Salvioli

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The meeting was called to order at 10 a.m.

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

Sixth periodic report of Spain (continued) (CCPR/C/ESP/6; CCPR/C/ESP/Q/6 and Add.1)

1. *At the invitation of the Chairperson, the delegation of Spain took places at the Committee table.*
2. **The Chairperson** invited the delegation to continue its replies to questions raised by the Committee at the previous meeting.
3. **Ms. Ramos García** (Spain), in reply to a question on sexual and reproductive health education, said that the subject was taught in schools by biology teachers, who were required to have a tertiary-level qualification in health sciences and to have received specific training in the content of the curriculum.
4. **Ms. Cleveland** said that she would appreciate a response to the question she had raised at the previous meeting concerning allegations of ill-treatment by border police in the autonomous cities of Ceuta and Melilla. In particular, she wished to know about the training provided to border police on the use of force in their engagement with migrants, the number of complaints lodged and investigations conducted and the availability of oversight mechanisms.
5. The Committee was concerned that the proposed bill to bring domestic legislation on incommunicado detention more closely into line with relevant European Union (EU) directives would not abolish all uses of such detention and would continue to allow for the deprivation of fundamental rights, including the right of access to counsel. She asked what the status of the bill was, and whether any further legislative changes were contemplated. She wished to know whether requests for incommunicado detention would be resolved *ex parte* or whether detained individuals would be able to contest decisions with the assistance of counsel. What would be the burden of proof for showing that incommunicado detention was necessary based either on a serious threat to life or liberty or on substantial jeopardy to the criminal proceedings? Could incommunicado detention decisions be appealed? Was it the case that under the new legislation the detainee's lawyer would be denied access to the proceedings and police files and that detainees would not have access to a physician of their choice? What plans did the State party have for ensuring that the legislation complied with all aspects of EU directive 2013/48? She would welcome statistics on the number and type of cases in which incommunicado detention had been employed since the consideration of the previous report. She would also welcome statistics on any complaints of mistreatment of detainees held incommunicado and on the number of ensuing investigations and their outcomes. Referring to paragraph 38 of the replies to the list of issues (CCPR/C/ESP/Q/6/Add.1), she asked whether the guarantees referred to applied to all cases of incommunicado detention. She wished to know whether, in the light of recent European Court of Human Rights decisions, measures had been taken to require Spanish courts to consider independent medical assessments of individuals who claimed that they had been subjected to torture or ill-treatment. She also wished to know how often solitary confinement was used in the criminal justice system, what the standards were for subjecting individuals to solitary confinement and what oversight regime was in place. She would welcome information on the situation of the Basque lawyer Arantza Zulueta, who had reportedly been held in solitary, pretrial confinement for over a year.
6. She asked whether the new legislation on expulsions referred to by the delegation at the previous meeting applied to all expulsions at Spanish borders or

whether different procedures applied at Ceuta and Melilla. Had any group expulsions or summary returns to the Moroccan authorities taken place since the introduction of the new law and, if so, had they complied therewith? The Committee would like to know when the asylum office at Ceuta was expected to be operational. According to reports before the Committee, Moroccan border guards regularly blocked access by persons from sub-Saharan Africa to the asylum office at Melilla. She would therefore like to know what measures the State party had taken to prevent the harassment and intimidation of such persons. More generally, she asked whether different asylum procedures applied *de jure* or *de facto* to individuals originating from different countries and regions. How did authorized summary expulsions comply with the State party's international human rights obligations? What measures were taken to ensure that irregular migrants who had entered Spanish territory were not forcibly returned to Morocco prior to an individualized screening process with a view to identifying persons in need of protection, assessing those needs and taking appropriate action? Were workers in migrant holding centres and temporary reception centres adequately trained in the requirements for providing international protection and was access to such locations guaranteed to specialized non-governmental organizations (NGOs) to help identify possible protection needs? Was information on international protection and the means for requesting such protection available in all locations where migrants were initially held?

7. Turning to the issue of rules on sub judice confidentiality, she asked when the new protections provided for by the bill amending the Criminal Procedure Act and the Judiciary Act were expected to enter into force. She asked what the requisite burden of proof would be for obtaining a sub judice confidentiality order, whether the opposing party would be entitled to appear and to test such a request, whether such an order would be subject to appeal and, if so, at what point in the litigation proceedings. Could the one-month limitation contemplated in the new bill be extended and, if so, what limitations would be imposed on such extensions?

8. The delegation should elaborate on the extent to which the amendment to Act No. 10/2012, which governed certain legal and court fees, made fee waivers more widely available. What was the status and content of the proposed changes to the Free Legal Aid Act and what observations from legal professionals had the Ministry of Justice received in its review of that bill? The delegation should comment on reports that the draft legislation would hinder the effective provision of legal aid by raising the income limit below which citizens could benefit from legal aid. Would undocumented migrants from non-EU states have access to free legal aid?

9. **Mr. Politi**, referring to the issue of the forced sterilization of persons with disabilities, asked whether it was possible for experts in cultural diversity to participate in the judicial process mentioned in paragraph 23 of the replies to the list of issues. He asked what safeguards were in place or envisaged to avoid possible conflicts of interest between guardians and their wards.

10. The Committee would appreciate additional information on any recent measures taken to improve living conditions in migrant holding centres and on the new regulations that had been approved in March 2014. He wished to know whether the officials responsible for overseeing and managing holding centres were provided with the necessary specialized training, whether overcrowding was a problem at any of the centres and whether sufficient personnel were available to respond to medical and sanitary needs. Were asylum seekers held separately from migrants in an irregular situation? What percentage of those held in holding centres were facing criminal proceedings or had completed a period of detention in connection with such proceedings? How many individuals had been held in the centres in 2013 and 2014 and how many of those had been expelled from the State party? He asked whether

unaccompanied minors were held in the same facilities as adults and what impact the framework protocol relating to unaccompanied minors mentioned by the delegation at the previous meeting would have in the context of holding centres. He would welcome additional information on the specific limits imposed on individuals in holding centres, in particular regarding the right to communicate with their families and to receive medical services. The delegation should comment on the alleged secrecy of complaints procedures and the widespread existence of video cameras in holding centres. He would also welcome information on the deaths in holding centres of Samba Martine, Aramis Manukyan and Ibrahim Sissé.

11. Regarding the amendment to the Criminal Code and the bill on public security, referred to in paragraph 50 of the replies to the list of issues, he asked the delegation to comment on reports before the Committee that suggested that some provisions were not consistent with respect for the freedom of expression and the freedom of assembly. In particular, he asked whether the fact that under the new provisions some offences were subject to administrative, rather than criminal, sanctions might have the effect of reducing the guarantees for individuals who had committed those offences. More generally, the limits imposed on the right to hold spontaneous demonstrations and the lack of clarity in defining the notion of public security, for example, or the objects of the protection that the legislation intended to guarantee raised legitimate concerns about respect for principles of the Covenant. He asked the delegation to clarify whether those who spread information regarding demonstrations through the Internet might be considered to be promoters or organizers of such assemblies and what types of incitement were covered by article 557, paragraph 2, of the Criminal Code. He asked how the broad definition of acts of violence contained in article 557, paragraph 1, could be justified in terms of respect for freedom of expression and to what extent article 559 on the public diffusion of messages to incite the commission of any crimes against public security was consistent with the principle of legality.

12. He asked the delegation to comment on reports regarding numerous instances of excessive use of force by the police during demonstrations and to provide information on any investigations that had been conducted in that regard. He asked whether a judicial inquiry had been conducted into the events that had occurred during the demonstration at Atocha Commuter Station in Madrid on 25 September 2012. He requested information on the outcome of the judicial inquiry into the incident in Madrid on 11 July 2012 during which 36 police officers had been injured and on details of any investigation that had been conducted into the demonstration held in Barcelona on 27 May 2011. He asked the delegation to comment on the criticisms of the State party's compliance with its obligations concerning freedom of assembly made by the Special Rapporteur on the rights to freedom of peaceful assembly and of association in a report published on 10 June 2014. The delegation should explain how, during demonstrations, it was possible from a reasonable distance to identify police officers wearing bullet-proof vests that covered their personal identification badges.

13. **Mr. de Frouville**, after welcoming measures to restrict the conditions for granting pardons, requested further details on the circumstances of the pardons that had been granted to three police officers. He also wished to know the status of the two complaints about the handling of the cases of Juan Ignacio Otaño Labaka and Tomás Madina Echevarría. Regardless of whether or not terrorism charges had been brought, the fact that there had been allegations of torture meant that the State party was under an obligation to investigate the facts. He also asked the delegation to provide fuller answers in writing to his earlier questions on the Private Security Act, with particular reference to the specific sections of the Act relating to the power of private security firms to make arrests, their supervision by the police and their interaction with the official law enforcement agencies of the State.

14. With reference to his questions on crimes of the past, he said that the right to truth and the right to justice should be regarded as two separate rights dealt with under different procedures. The right to truth was always a more urgent matter, especially in cases of disappearances, because the families of victims and witnesses were growing older without knowing exactly what had happened. Given that the legal issues involved were very complex, he suggested that discussing the matter in writing would be more fruitful. It might even be possible to establish a joint commission of independent experts to assist the State party in the issue.

15. With regard to question 17 of the list of issues, the delegation should comment on a number of provisions of the March 2015 reform of the Criminal Code that had been heavily criticized as being either too specific or too vague. First, by mentioning jihadism, the implementing law risked drawing a direct link between Islam and international terrorism in general. Second, the definition given of terrorism was so broad that it might be applied to forms of expression that were not of a terrorist nature. For example, promoting a terrorist group should not be equated with belonging to a terrorist group. Third, the reference to “subversion of the constitutional order” was such an unclear formulation of terrorist purposes that it could be abused. Fourth, the amendment of paragraph 575 of the Criminal Code seemed to imply that people accessing jihadist sites could be accused of terrorism without having participated in terrorist activity. Even if the logic of preventing online radicalization was understandable, anticipated criminalization of that kind might curb freedoms excessively.

16. With reference to the State party’s reply to question 18, he asked when the State party’s amendment to the Criminal Procedure Act to guarantee second hearings would be passed into law and under what circumstances any exceptions to it would apply.

17. **Mr. Rodríguez-Rescia** emphasized that, although the Committee did not have the same powers as the European Court of Human Rights, it was an international organization that interpreted, applied and monitored compliance with the Covenant. The delegation should bear in mind that articles 93 and 96 of the Spanish Constitution enshrined the concept of the primacy of such international organizations, while article 27 of the Vienna Convention on the Law of Treaties enjoined parties not to invoke the provisions of its internal law as justification for its failure to perform a treaty.

18. The humanitarian crisis in Spain regarding unaccompanied minors was largely due to arrivals from a select number of areas, such as sub-Saharan Africa, Morocco and Eastern Europe. The adoption of the Framework Protocol on Procedures in Relation to Unaccompanied Minors was commendable but he wondered how the State party worked with countries of origin, given that there were only a few, to prevent the expulsion of children travelling without their parents. Particularly alarming was the fact that, on turning 18, unaccompanied minors automatically forfeited their residence permits. In that connection, he asked what methods were used to determine the age of undocumented children.

19. He asked what the State party was doing to curb xenophobic practices and hate speech, which could lead to persecution against migrants and asylum seekers. Although Spain was internationally recognized for its positive handling of Roma people, he questioned the use of non-refoulement measures and the observance of diplomatic guarantees, especially following the expulsion of a Belgian-Moroccan national in spite of clear evidence that he would face danger in Morocco.

20. He was concerned about the “express flights home” of immigrants who had legally received temporary residence permits in Spain but had experienced economic difficulties, resulting in the withdrawal of their permit and their rapid expulsion within a period of 72 hours. What did Spain plan to do to regularize such expulsions? Along

the same lines, he asked whether rumours were true that the Government planned to restrict public health access for non-documented immigrants, including Roma people. He would also welcome further details on refugees and asylum seekers in Ceuta and Melilla. Lastly, he asked whether the services of an office opened in 2014 for Syrian refugees would be extended to other nationalities and whether an early warning system existed to identify all asylum seekers, especially given current weaknesses at airports and ports.

21. **Ms. Jelić** observed that, despite positive steps to eliminate the excessive use of stop-and-search measures by police, the large numbers of complaints of ethnic profiling submitted to the Ombudsman's Office suggested that additional efforts were required. She asked what specifically had been done to combat racist or xenophobic incidents and put an end to ethnic profiling and whether the State had pursued efforts to train all the police officers to work more effectively in a diverse society.

22. She would welcome further information on recent cuts to the workforce of the Council for the Promotion of Equal Treatment and the Prevention of Discrimination on the Basis of Racial or Ethnic Origin and on the resignation of its president. The halving of its budget and the fact that many members were having to work on a purely voluntary basis jeopardized the Council's very existence and brought into question the level of importance attached to it by the Government. She also asked what had been done to strengthen the Network of Assistance to Victims of Discrimination. The Network lacked funds to litigate on behalf of victims, which meant that many victims of discrimination could not afford to take their cases to court.

23. **Mr. Iwasawa** said that he welcomed the inclusion of article 10, paragraph 2, in the Spanish Constitution, under which rights and freedoms recognized under the Constitution were interpreted in accordance with the Universal Declaration of Human Rights and international treaties ratified by Spain. He requested details of specific cases in which Spanish courts had made reference to the Covenant.

24. **Mr. Shany** said that the delegation had not yet answered his questions relating to crimes committed during the civil war. The delegation should also comment on the suspension and prosecution of judge Garzón for abusing his power to interpret the 1977 Amnesty Act. The question had already been raised by the Special Rapporteur on the independence of judges and lawyers, as the matter was directly related to the State party's obligations to provide remedies for past abuses and ensure the independence of the judiciary.

25. **Mr. Muhumuza** said that, despite the plethora of legislation and bodies to implement laws, there were still abundant reports of human rights violations in Spain. He asked the reason for that disparity and whether it might be due to selective implementation of the laws or a lack of political will to carry them through.

The meeting was suspended at 11.25 a.m. and resumed at 11.40 a.m.

26. **Ms. Menéndez** (Spain) said that, in view of time constraints, her delegation would respond to a number of questions in writing.

27. **Mr. Viada** (Spain) said, in reply to Mr. Rodríguez-Rescia, that, although it might appear from article 96 of the Constitution that the Spanish system was a limited monist system, it was in fact dualist. Article 93 provided that, by means of an organic law, authorization could be established for the conclusion of treaties which attributed to an international organization or institution the exercise of competences derived from the Constitution. Under article 10, international treaties were interpreted in accordance with Spanish law. Sentences handed down by international tribunals and binding legal norms or legal decisions made by international committees fell into a distinct category and required an organic law in order to be given effect.

28. In reply to a question from Mr. Shany, he said that his delegation would send information on the opening of the archives from 1968 in writing. With regard to the question about whose responsibility it was to open graves, he clarified that, although the Historical Memory Act had parliamentary authority, a local authority permit was required. On the issue of subsidies, he said that, while article 11 of the Act made provision for the granting of subsidies, it did not generate a specific right to them, since they required authorization through the budgetary approval process.

29. With regard to judge Garzón, he said that the Supreme Court had found in 2012 that proceedings in respect of politically motivated acts committed prior to the entry into force of the Amnesty Act could not be reopened; all judges were required to abide by that ruling. In reply to a question raised previously by Mr. de Frouville, he said that a committee of experts would not be able to establish or investigate criminal responsibility; although investigating judges could do so, they could not bring criminal proceedings once the statute of limitations had elapsed. A committee of experts could, however, conduct historical investigations and, indeed, had previously done so. Witnesses could only be called on to give statements regarding killings in the context of a criminal trial.

30. Although Spain had been convicted by the European Court of Human Rights of failure to investigate torture allegations, the European Union had found that the information provided was unsatisfactory. Therefore, the European Committee of Ministers had instituted a special procedure allowing Spain to provide explanations on a number of cases. Against that background, he was unable to provide further information on the cases of Oihan Unai Ataun Rojo and Beatriz Etxebarria Caballero, as their cases were currently before the Committee of Ministers and the confidentiality rule applied.

31. With regard to the provision on administrative offences contained in the bill on public security, he emphasized that it was in place to protect basic facilities in the event of a serious breach of the peace and did not apply to demonstrations. Prior notification of demonstrations was required; a demonstration that entailed a risk of violence and damage to people and property might be prohibited. Prior notification was also required in the event of the occupation of public paths and areas against the will of the owner, and did not constitute a violation of freedoms. The prohibition against photographing police officers was intended to protect them and their families.

32. **Ms. Arrieta** (Spain) said that, under articles 520 and 527 of the Code of Criminal Procedure, persons in incommunicado detention had access to legal aid, although they could not choose their own lawyer; moreover, they could consult a lawyer before making any statement to a police officer or prosecutor. The waiver of that right in exceptional circumstances when there was a need to avoid serious consequences for the life or physical integrity or freedom of a person was based on and consistent with the relevant European law and directives, as were other laws in the national legal order. Under article 527 of the Code, a forensic physician was permitted to visit a person in incommunicado detention twice in a period of 24 hours and could be accompanied by a second physician on the initial visit. In some instances, detainees had been visited by the physician of their choice.

33. The proposed amendments to the Code of Criminal Procedure currently before the parliament clearly recognized the right of detainees to communicate with a lawyer in private. Those amendments also included the introduction of free legal aid without means-testing for victims of violence, terrorism or trafficking and for minors and persons with disabilities and provided for improved access to free legal aid by foreigners. Moreover, they recognized various vulnerable categories of person, who would be defended by the same lawyer in all proceedings, where possible, in order to

guarantee the right to privacy and avoid further victimization. Lawyers dealing with such cases were provided with special training.

34. In connection with action against terrorism, the law recognized the right to free legal aid without means-testing for associations defending victims or groups of victims of terrorism. Efforts were made to inform victims and accused persons of the mediation procedure, which formed part of the national legal order, and to promote the use of technology to improve the provision of free legal aid.

35. In respect of public order offences, she added that the Criminal Code did not seek to criminalize gatherings in public spaces. However, although the right to freedom of expression could clearly not be violated, the use of violence was a punishable offence, as was the use of blunt objects or flammable material as weapons at gatherings.

36. In reply to a question raised previously, she said that the pardon granted by the Ministry of Justice in the case of a Roma victim of torture was exceptional in nature.

37. With regard to terrorist offences, article 575 of the Criminal Code, as amended, increased penalties for terrorist indoctrination or military or combat training in person or by means of the Internet; visits to sites publishing such content had to be repeated and regular in order to constitute an offence. The Criminal Code also covered hate crimes and prescribed penalties for anyone who published materials inciting hatred or inciting others to commit terrorist acts.

38. **Mr. Rico** (Spain) said that the regulations applicable to holding centres since 2014 applied to non-correctional facilities and distinguished clearly between security and social assistance functions, which were provided by different bodies. Holding centres were managed by the Ministry of Internal Affairs and supervised by judges, with a view to improving conditions for detainees. Average occupation figures in holding centres were approximately 40 per cent; the average holding time was 24 days and the maximum holding time was 70 days. Approximately half of some 9,000 persons held in 2013 had been expelled.

39. Article 62, paragraph 4, of the Aliens Act explicitly banned the holding of minors in holding centres. Unaccompanied foreign minors in an illegal situation were not subject to any penalties and the law sought to protect them. A minor could only be detained in a holding centre if a family member requested an interim measure, for example in the event of a return, provided that the Office of the Public Prosecutor gave its consent.

40. Detainees in holding centres could submit requests or appeals to administrative judicial bodies or complaints to the Office of the Public Prosecutor or the Ombudsman, either directly or through NGOs. Holding centres maintained an open register of complaints and requests, in line with the established regulations. The responsibility of the medical centre at the holding centre in Melilla in the death of the Congolese national Samba Martine, who died after being transported to hospital in Madrid, was being investigated. The Office of the Public Prosecutor had filed a case in January 2015 in respect of the death of the Armenian national Aram Manukyan in Barcelona and an appeal had been brought against the decision; the case was currently pending before the courts. Any type of administrative or judicial complaint was investigated.

41. The use of mobile telephones by detainees in holding centres had been approved the previous week, subject to the need to ensure a detainee's security and privacy.

42. In reply to the question raised about "express flights home", whereby migrants were reportedly returned to their home countries within 72 hours, he explained that such cases were preceded by a lengthy administrative procedure that respected legal

guarantees, such as the right to legal aid and interpretation and the possibility of appealing decisions and administrative rulings. In fact, such expulsions did not occur within 72 hours, and interim measures could be requested from the judicial authorities.

43. Lastly, in reply to a question raised by Ms. Jelić on racial profiling, he said that the new Citizens Security Act stipulated that identification must strictly respect the principles of proportionality, equal treatment and non-discrimination on grounds of nationality, racial or ethnic origin, sex or religion. The Police Department, which had its own training centres, would provide training to officers in the new law.

44. **Mr. Pacheco** (Spain) said, in reply to questions raised previously concerning the situation of migrants and access to asylum procedures in the autonomous cities of Ceuta and Melilla, that the police acted in accordance with established principles of proportionality in their use of border control measures. As for control mechanisms, there were judicial controls in place, in addition to the internal controls carried out by the police in all areas. All police officers working in border areas received specific training in human rights throughout the course of their careers. Those working in Ceuta and Melilla also received training in restrictions on the use of force, human rights obligations and international protection, as well as in emergency assistance for vulnerable persons.

45. Different legal regimes were applicable to foreigners who had entered Ceuta and Melilla and to those who had been prevented from doing so. Those who had entered underwent individualized expulsion procedures under the Aliens Act, which enabled the national authorities to identify possible trafficking victims, provide assistance and apply the principle of non-refoulement, and went hand in hand with various other measures such as legal aid. A legal provision had recently been added to the Aliens Act to clarify the legal regime applicable to persons who had been prevented from entering Ceuta and Melilla, taking into account the particular geographical situation of those cities. All action taken had been consistent with the applicable national and community border controls in force.

46. The right of asylum in Ceuta and Melilla had always been guaranteed when requested, as in Spain and the border areas. The national authorities recognized that the increase in migrant pressure could lead to an increase in asylum requests; since September 2014, a greater number of asylum officers had been deployed in Ceuta and Melilla and the offices in both cities were open. Measures to improve the options available to asylum seekers were in line with the provisions on the special regime for Ceuta and Melilla and with the State's obligations in respect of international protection; asylum requests could be formulated in those areas and in border areas.

47. Information was provided to potential asylum seekers on the exercise of their rights in a number of ways throughout the country and in Ceuta and Melilla. Many migrants were held in temporary detention centres and open regime centres, where they were provided with housing, basic needs and a whole range of services, including information sessions on asylum requests delivered by NGOs and financed by the Ministry of Employment and Social Security. Information was also provided at the asylum offices that had been opened in 2014.

48. The majority of asylum seekers in border areas were Syrian, although requests had also been received from people of other nationalities.

49. **Mr. Zurita Bayona** (Spain) said that Mr. Juan Ignacio Otaño Labaka had been sentenced to 6 years' imprisonment for terrorist activities, pending appeal. Private security guards were subject to strict rules, some of which were laid down in the Criminal Code, and various penalties could be imposed for offences committed. Spanish legislation did not expressly provide for the systematic recording of interviews conducted at police stations and holding centres; however, progress was

being made on the issue in response to the Committee's comments: for example, EU legislation on protecting victims of crime had been incorporated into domestic law. An act due to come into force in October 2015 stipulated that statements made by minors and persons with disabilities must be recorded and could be used in court.

50. Solitary confinement was used only in exceptional circumstances and was subject to strict judicial control. A person could not be held in solitary confinement for more than 14 days without approval from a judge. Medical checks were carried out at least once a day — sometimes as many as three times — and the detainee was entitled two hours' exercise daily.

51. With regard to allegations made in May 2015 by Argentine human rights defenders and health professionals to the effect that Spanish forensic doctors were covering up cases of torture, he said that, in addition to internal police procedures, the Ministry of Justice had mechanisms in place to monitor forensic doctors' work. Specific training for them was planned in how to detect and prevent cruel or inhuman treatment and guidelines on the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) were being drafted. Ms. Arantza Zulueta was being held not in solitary confinement but in a closed facility, where at least four hours' daily contact with other inmates was guaranteed.

52. Riot control equipment had been used during only 20 of the 6,000 demonstrations held in Spain in 2013. In April 2013, a new system had been introduced to make the identifying marks on riot police uniforms more visible and in 2011 the Ministry of Internal Affairs had signed an agreement with a national journalism federation to ensure that information professionals could go about their work in safety by being better identified. The use of riot control equipment was covered by police regulations. No charges had been brought in respect of the events of 25 September 2012 at the Atocha railway station in Madrid. The case of Ms. Ángela Jaramillo had been closed in March 2012, while no judicial proceedings appeared to have been initiated in the case of Ms. Paloma Aznar Fernández. Information concerning the events that had occurred in Plaza de Cataluña, Barcelona, on 27 May 2011 was being sought from the relevant authorities.

53. **Mr. Sánchez-Covisa Villa** (Spain) said that no unaccompanied minors had been repatriated in 2014. Of the eight or nine cases that had occurred in 2013, all had involved requests from relatives in countries of origin. No minors had been repatriated to Morocco. Identifying the age of undocumented aliens entailed considerable problems: minors and adults were subject to different legal frameworks and the minimum working age was 16. The authorities did not seek to determine age definitively, but rather to establish whether an individual was a minor and therefore required protection. Medical methods were used to determine age. Bilateral agreements were in place with some countries to facilitate the exchange of documentation that would help to prove an individual's age and legal status.

54. **Ms. Martín Nájera** (Spain) said that the majority of cases of sterilization involved women. Sterilization of a consenting, competent adult was legal in Spain; sterilization without consent was an offence. Persons with disabilities who lacked the legal capacity to give consent could be sterilized if legal safeguards, including the need for two expert opinions in support of the measure, were observed. Sterilization could be requested either as part of the process of establishing legal capacity or as an independent procedure. Experts in cultural diversity were involved in the consent process whenever the courts deemed it necessary. In order to avoid conflicts of interest between guardians and their wards, three safeguards existed: the individual concerned could request his or her own legal counsel, or one could be appointed to represent him or her; the prosecution services must be involved in any such case; and an independent

lawyer was appointed by the courts to represent the individual if the issue was being dealt with in conjunction with the determination of legal capacity.

55. **Ms. Fernández de la Hoz** (Spain) said that the scale of immigration to Spain had required major efforts to promote a peaceful, cohesive society and avoid the stigmatization of migrants. Much work had been done with the Gypsy community. It was important to be alert to the possibility of incidents occurring and to try to prevent them. The Comprehensive Strategy on Racism, Racial Discrimination, Xenophobia and Related Intolerance had been adopted in 2011. Annual surveys revealed that attitudes towards immigration in Spain were becoming increasingly tolerant. Relevant training had been provided for more than 20,000 members of the law enforcement services. Various legal, educational and other measures had been taken to tackle hate crime: in particular, the new Criminal Code specifically covered hate crimes and incitement to hatred.

56. **Ms. Minguito Gil** (Spain) said that government policy on unaccompanied foreign minors rested on two main pillars: regularizing the administrative situation of the individuals involved and taking preventive measures so that leaving their countries on their own was no longer the most attractive option. Given that the majority of unaccompanied minors in Spain came from Morocco, an agreement had been signed with the Moroccan authorities on repatriation, cooperation and prevention. Prevention was also a key element of the mobility partnership between Morocco and the European Union. Two training centres had been opened in Morocco to give minors a better chance of finding work there. Unaccompanied minors in Spain who reached the age of majority could renew their residence permits and enter the labour market.

57. **Mr. Sola Barleycorn** (Spain) said that anti-discrimination training had also been provided to various groups of civil servants, such as those involved in drafting and implementing government policy. The Government was collaborating with NGOs to encourage the media to avoid displaying prejudice, particularly towards the Roma community. Recommendations made to political parties concerning the use of non-discriminatory language in recent local elections would be repeated when the general election was held later in the year. Some funding had been made available to help victims of hate crimes obtain access to justice. The Government believed the Council for the Promotion of Equal Treatment and the Prevention of Discrimination on the Basis of Racial or Ethnic Origin to be sustainable and had acted on that understanding. Given that most discrimination took place in the labour market, and was therefore usually dealt with by administrative tribunals rather than the courts, funding for legal representation was not always necessary to ensure that victims could obtain redress.

58. **Mr. Rodríguez-Rescia** said that his information on “express flights home” had come from the Ombudsman; the issue appeared to be pending.

59. **Ms. Cleveland** asked what stage the draft decree to implement the 2009 Asylum Act had reached.

60. **Ms. Menéndez** (Spain), after expressing appreciation for the fruitful discussion and the involvement of civil society, said that further information would be provided in writing. She hoped that the Committee’s meetings with States parties could be webcast in future and said that her Government was willing to follow the simplified reporting procedure for its next report.

61. **The Chairperson**, speaking as a member of the Committee, observed that the parliamentary group working on abortion belonged to the governing party and he wondered whether the Government agreed with its views. He welcomed the steps being taken to apply the Istanbul Protocol and requested further information on alleged cases of torture. The creation of an independent body of experts should pose no problem from the point of view of international law; several countries had already

taken that step. The Committee doubted whether legislation was required to implement its decisions, but, if so, it should be introduced. He emphasized that only the Committee could interpret the Covenant. Lastly, he welcomed the State party's decision to follow the simplified reporting procedure in future.

The meeting rose at 1.05 p.m.