



Convention on the Rights of the Child

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Committee on the Rights of the Child

Consideration of reports submitted by States parties under article 44 of the Convention

Combined fifth and sixth periodic reports of States
parties due in 2015

Spain*, **

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** The annexes and appendices to the present document may be consulted in the files of the secretariat and on the web page of the Committee on the Rights of the Child.



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Introduction

1. Since the last report on the implementation of the Convention on the Rights of the Child prepared by Spain, a number of reforms have been carried out in response to the recommendations of the Committee on the Rights of the Child.
2. Through the adoption of Organization Act No. 8/2015 of 22 July 2015 and Act No. 26/2015 of 28 July 2015, both amending the system for the protection of children and adolescents, a comprehensive process of reform was initiated which has made significant progress as reflected in the present report.
3. In addition, reforms have been carried out in the education system and legislative changes introduced, raising the minimum age for marriage and sexual consent, stiffening the criminal penalties for the exploitation and abuse of boys, girls and adolescents and amending the procedural legislation so as to implement the principles of “child-friendly justice”.
4. Improvements have been made to the policies for children and other associated social policies and various strategic plans have been adopted on a nationwide basis and at the level of the autonomous communities and local areas.
5. The Ministry of Health, Social Services and Equality is responsible for the preparation of the present report, which also covers follow-up to the Optional Protocols on the involvement of children in armed conflict and on the sale of children, child prostitution and the use of pornography, in accordance with the Committee’s general guidelines (2015) and incorporates, first and foremost, the responses to the recommendations made in each area.
6. Preparation of the report involved coordination activities within the central government system between the Ministry of Foreign Affairs and Cooperation and the other ministerial departments with responsibilities for children’s affairs. Where cooperation with the autonomous communities is concerned, information was gathered through the Joint Commission on Child and Family Services of the Autonomous Communities and also through the Childhood Observatory, with input from the public and civil society institutions represented.
7. This participatory process has been extended to civil society through the State Council of Non-Governmental Organizations Responsible for Social Action Programmes.

I. General measures of implementation

Specific reservations and declarations in relation to any article of the Convention or its protocols

8. Spain has made no reservations to the Convention or its protocols.
9. It ratified the Optional Protocol on a communications procedure on 19 April 2013.

Measures adopted to bring national legislation and practice into full conformity with the provisions of the Convention and its optional protocols

10. Through an extensive process of legislative reform, with the adoption of Organization Act No. 8/2015 of 22 July 2015 and Act No. 26/2015 of 28 July 2015, both amending the system for the protection of children and young persons, a number of substantive and procedural laws have been updated to bring them into conformity with the provisions of the Convention.¹

11. This reform is designed to ensure uniform protection throughout the country and to provide a reference framework for the autonomous communities to use in developing their legislation on children and in incorporating the provisions of the international agreements which safeguard their rights, in particular the Convention on the Rights of the Child and its optional protocols.

12. A number of national strategic plans are aligned with the Convention, such as the 2013–2016 national strategic plan for children and young persons, the third plan of action to counter the sexual exploitation of children and young persons for the period 2010–2013, the 2015–2017 comprehensive family support plan, the 2013–2016 national action plan for social inclusion and the 2015–2018 comprehensive plan to counter trafficking in women and girls for purposes of sexual exploitation.

National strategy for children and action plans

13. The second national strategic plan for children and young persons, adopted by a 2013 Council of Ministers agreement, aims to raise awareness of the situation of children; to support families in caring for children and young persons under their responsibility; to protect and safeguard children at risk or in situations of social conflict; to guarantee good-quality education; to ensure protection and adequate access to information technologies and the media; and to uphold the right to health and the enjoyment by children of a healthy environment.

14. For the purposes of its preparation contributions were gathered from public authorities, through the relevant ministries of the central government system, the autonomous communities and the Spanish Federation of Municipalities and Provinces, from non-governmental organizations (NGOs), in particular through the Children's Platform, which comprises 58 associations for children and young persons, and also from universities, from experts and from children and young persons themselves through the Platform. An interim assessment of the second national strategic plan was carried out in 2015.

15. In addition, at the State level other initiatives have been mounted to promote the well-being of children: these include the 2010–2020 comprehensive plan for physical activity and sport (known as the A+D plan), the 2011–2013 plan for the inclusion of special-needs schoolchildren, the 2012–2020 Spanish disability strategy and its 2014–2020 action plan, the 2014–2016 strategic equal opportunities plan and the 2014–2020 health promotion and prevention strategy in the national health system.

¹ See links to the relevant documents.

16. At the autonomous community level, attention is drawn to the Castile and León Covenant on the Rights of the Child, care plans for children and young people of Asturias, Andalusia, the Basque Country and Galicia, and family support programmes in Castile-La Mancha, Madrid and Galicia.

17. Action plans for children are also being implemented at the local level, this being one of the requirements under the programme of the United Nations Children's Fund (UNICEF) Spanish Committee, with support from the Spanish Federation of Municipalities and Provinces and the Ministry of Health, Social Services and Equality, for recognition as a child-friendly city.

Coordination of the implementation of the Convention and its optional protocols

18. The political and administrative structure of Spain is such that there must be collaboration between the central government administration and the autonomous communities with regard to the protection of children and teenagers.

19. The Ministry of Foreign Affairs and Cooperation and the Ministry of Health, Social Services and Equality are the central government entities responsible for coordinating the implementation of the Convention in Spain in cooperation with the autonomous communities, which have exclusive competence in the area of child protection.

20. To ensure that coordination between them is sufficient and effective, policy cooperation arrangements have been set in place between the government authorities, such as the Local Social Services Council and a system for self-sufficiency and dependency care, which since 2015 has included an interregional commission on children and families, which links these policies together in a holistic manner for the promotion of child welfare.

21. In addition, the Childhood Observatory² has stepped up its activities as a participatory forum, by setting up a range of thematic working groups, carrying out the evaluation of strategic plans and developing coordination protocols.

22. In pursuance of the second national strategic plan for children and young persons, a commission has been set up within the State Childhood Observatory to promote cooperation between it and the observatories at the autonomous community and local levels, including both those autonomous communities that have their own child observatories³ and those which, while they do not as yet have them, have expressed interest in pooling the work that they have already carried out with a view to furthering the task of developing policies for children.⁴

23. Associative arrangements between the public authorities and NGOs working on children's rights are essential to improve the quality of participatory processes and for the planning, implementation and evaluation of social policies. These arrangements are guaranteed by Act No. 43/2015 of 9 October 2015, relating to the third sector of social action.

² <http://www.observatoriodelainfancia.msssi.gob.es>.

³ Andalusia, Asturias, Balearic Islands, the Basque Country, Cantabria, Catalonia, Extremadura, Galicia, Valencia and Ceuta.

⁴ Castile-La Mancha, Madrid and Navarra.

Data collection

24. The following initiatives have been put in place to strengthen arrangements for the systematic collection and analysis of disaggregated data on children and young persons:

- Continued collection on a regular basis of statistics on the situation of children, to identify trends. The Ministry of Health, Social Services and Equality and the UNICEF Spanish Committee have set up a child data website,⁵ providing a system of basic indicators on children's well-being, which is regularly updated.
- Provision of new statistical information on child-related aspects in the 0–18 age bracket, disaggregated by sex, age, disability and place of residence, in collaboration with the National Statistics Institute.
- Upgrading the statistical bulletin of child protection measures and the statistical bulletin of measures imposed on young offenders.⁶
- Setting up an information-sharing system between the autonomous communities and the central government authorities, as set out in the new legislation and in line with existing information systems in certain autonomous communities, such as Catalonia or Castile and León, to ensure a uniform understanding of arrangements for the protection of children and young persons in Spain and for their foster care and adoption, with data disaggregated by gender and disability, both for the follow-up of protection measures and for statistical purposes.
- Compilation of statistical data on children and young persons who are the children of victims of gender-based violence.

25. Data are not disaggregated by ethnic origin, as this is considered discriminatory under current regulations, so this variable is not tracked in official statistics.

26. In the absence of an official census, information on the Roma population is obtained through research and studies in various areas of the country and by different entities (NGOs and universities). This information-gathering exercise constitutes a complementary activity of the 2012–2020 national strategy for the social inclusion of the Roma population in Spain, the current policy framework applicable to this population group.

Allocation of resources

27. One of the major innovations introduced by Act No. 26/2015 is the requirement to measure the impact on children and young persons of all draft legislation, including economic legislation, designed to safeguard economic resources earmarked for children, in particular in times of crisis, and in the annual budget acts.

28. During the economic crisis, preparation of the central government budgets has been linked to attainment of the budget stability goals set by the economic policy of the European Union through its various stability programmes and budget consolidation measures in all areas of public expenditure.

29. The way in which State institutions are set up and the distribution of powers between the central government authorities mean that the autonomous communities are able to devote more financial resources to policies for children in areas such as education, health

⁵ <http://www.infanciaendatos.es/>.

⁶ See annex.

and social welfare. According to the 2015 report on budgetary allocations for children,⁷ which analyses trends in public spending on policies for children in Spain, over the three years analysed (2007, 2010 and 2013), the central government administration accounted on average for 12 per cent of the total investment in children by the public authorities, while together the autonomous communities accounted for the remaining 88 per cent.

30. When the central State budget is drawn up for each financial year, even where there is no separate and specific economic programme for policies for children, the cross-cutting nature of these policies means that they are still reflected in the various budget allocations for sectoral policies related to child welfare, in such areas as health, education, social services, etc.

31. Attention is drawn to the budget line “Social services and social promotion”, under which economic resources are allocated by the central government authorities for the protection of at-risk persons, including children and vulnerable families. Public expenditure under this budget item amounted in 2015 to €1.944 billion, an increase of nearly 7 per cent over the total allocated in 2014 (€1.810 billion).

32. Extraordinary allocations for social needs should be added to this figure, such as the fund for family and child support programmes set up in 2014 with funding of €17.4 million and included in subsequent years as a standard item in the central State budget, with allocations of €32 million in 2015 and €48 million in 2016, in this way almost tripling the resources allocated to this fund over this period.

33. Improvements have been made to the tax provisions applicable to household incomes, with a view to protecting the most vulnerable households and, in particular, those with children, by Royal Decree-Law No. 1/2015 of 27 February 2015, on the so-called “second chance system”, measures to alleviate financial burdens and other social provisions.

34. Where social security benefits are concerned, family benefits for dependent children totalled €2,116,171,840 in 2010 and dropped to €2,005,905,440 in 2014.

35. Plans prepared by the various ministries and designed to promote the rights of children are based on budget estimates comprising the totality of the financial resources pledged by the public authorities responsible for the implementation of the associated activities. One such example is the second national strategic plan for children and young persons, which has a budget in excess of €5 billion for its implementation. Approximately €4.5 billion of that is the responsibility of the autonomous communities and €750 million is provided by the central government authorities. Similarly, the 2013–2016 national action plan for social inclusion has an estimated budget of €136.5 billion for the conduct of its activities and the 2015–2017 comprehensive family support plan an estimated budget of €16.3 billion.

36. Among other areas where the central government authorities provide support to children is in the development of programmes for families and children, to be implemented by social action NGOs and subsidized by individual tax-payers through allocations from income tax revenues. Total investment in these family and child support programmes increased by 8.7 per cent in 2013 and 7.4 per cent in 2014, amounting to €22,840,996.14 in 2013 and €24,533,654.83 in 2014.

⁷ “La Infancia en los Presupuestos: Estimación de la inversión en políticas relacionadas con la infancia en España entre 2007 y 2013” (“Children in national budgets: estimated investment in child-related policies in Spain between 2007 and 2013”), Tomillo Centre for Economic Studies, UNICEF, 2015.

37. Where the policies of the autonomous communities are concerned, the allocation of resources for children and young persons also cuts across different sectoral policies (education, health and social services, which in Spain fall under the jurisdiction of the autonomous communities), and their plans and strategies are also backed by specific budget estimates for these areas.

38. According to the economic data provided by the autonomous communities, the budget lines relating to child protection for the support of families with children and teenagers at risk gained in priority between 2010 and 2011, but then dropped again in 2012. Between 2013 and 2015, they have steadily risen again, almost reaching their 2010 levels.

39. The total amount allocated to child protection has been uneven. Policies to adjust public expenditure between 2010 and 2013 led to a steady reduction in expenditure in this domain. Over the period 2014–2015, overall spending on child protection policies rallied again, almost regaining its 2010 level.

40. This trend is consistent with the developments described in the above-cited report on children in the national budgets, the findings of which show growth in or the maintenance of budget lines relating to welfare, education, health and direct benefits over the period 2007–2013. It is at this point that the public sector crisis starts to make a real impact on the Spanish economy, causing the cutbacks referred to above.

Development cooperation

41. Under the impact of the economic crisis the budget allocation for development cooperation has been cut. Nonetheless, Spain has followed the 2012 recommendations of the Committee on Economic, Social and Cultural Rights and complied with its criteria.

42. Once the process of economic recovery got under way, allocations from the central State budget for official development assistance started to rise by comparison with those of previous years. The 2015 allocation to the Ministry of Foreign Affairs and Cooperation was the largest. Social investment in children, as the share of official development assistance allocated for child welfare, which is seen as a priority, has recovered in absolute terms.

43. In the fourth master plan for Spanish cooperation for the period 2013–2016, children are included among the groups requiring preferential action, following the adoption in 2014 by the Spanish cooperation agency of its children's strategy, which maintains the issue of child welfare as a cross-cutting priority, as established during the previous plan.

44. The strategy aims to strengthen the quality of Spanish cooperation work, through the provision of comprehensive treatment for children, with a view to combating the phenomenon of fragmentation — or dissociation — in childhood and the invisibility of children, in addition to making progress in upholding their rights, particularly in developing countries, and all those involved in Spanish cooperation are engaged in this endeavour.

45. The second national strategic plan for children and young persons also includes a commitment to undertake, promote and collaborate in international development cooperation activities which incorporate the principles of the Convention on the Rights of the Child across all sectors.

46. The autonomous communities have the authority to implement their own policies in the area of development cooperation within the framework of the foreign policy led by the central Government. The planning and coordination of the public authorities in this area are undertaken through the Interregional Development Cooperation Commission, which, among its purposes, pursues the goals of coherence, complementarity, effectiveness and efficiency in identifying, formulating and implementing development cooperation programmes and projects and participating in the formation of the master plan.

Independent national human rights institution responsible for monitoring implementation of the Convention on the Rights of the Child

47. The Ombudsman is the parliamentary high commissioner responsible for receiving complaints from citizens regarding violation by the public authorities of the children's rights enshrined in the Convention.

48. In addition to this national institution, there are comparable institutions in the autonomous communities of Andalusia, Aragon, the Basque Country, the Canary Islands, Castile and León, Catalonia, Galicia, Navarra and Valencia.

Dissemination of the principles and provisions of the Convention on the Rights of the Child and its optional protocols

49. Actions taken under the second national strategic plan for children and young persons, in response to the recommendations of the Committee, help to disseminate the Convention and their implementation is followed up through appropriate indicators, as reflected in the interim evaluation of the plan.

50. Dissemination of the Convention is considered a core responsibility for the competent public authorities, in particular through the children's observatories, at both the State and autonomous community levels, and via a large number of NGOs. Their dissemination is carried out in various forms: hard-copy editions in all the State languages, websites and child-friendly versions.

51. As provided for in the second national strategic plan, awareness-raising campaigns are regularly conducted to disseminate information on the rights of children. Every year activities are held to mark Universal Children's Day, along with the other days established by the United Nations, such as the International Day of the Girl Child or the International Day of Zero Tolerance for Female Genital Mutilation.

52. Special importance is attached to the awareness campaigns run by the public authorities and NGOs to protect children from corporal punishment, sexual abuse, trafficking or gender-based violence and to involve society in the promotion of child welfare and in the application of certain protective measures. Many of these activities form part of NGO programmes subsidized by the Ministry of Health, Social Services and Equality from individual income tax revenues and the level of the subsidies will depend on the amount of tax collected.

53. The Ministry of Foreign Affairs and Cooperation is also able to draw on allocations designed to contribute to development, the improvement of knowledge and enhancement of human rights in various areas, through the conduct of national or international projects, notably the project carried out with Save the Children to disseminate the Optional Protocol to the Convention on the Rights of the Child on a communications procedure.

54. With regard to the training of professionals working in the area of child welfare, the Ministry of Health, Social Services and Equality, together with the autonomous communities, is developing training plans to meet the permanent training and retraining needs of those staff members of the public social services system who primarily provide services in the autonomous communities and at the local authority level.

55. These training activities are directly related to the provisions of the Convention relating to prevention, detection, reporting and intervention in cases of child abuse; prevention and intervention in cases of sexual abuse, trafficking and sexual exploitation of children and teenagers; the situation of unaccompanied foreign minors in protection

centres; legal aspects of social intervention in cases involving foreigners and also cases of domestic violence; the search for biological parents in adoption cases; and repeat offending and the systematic use of technical intervention procedures in the protection and reform of juveniles, among other issues.

56. The 2013 master plan for coexistence and improved safety in and around education centres also contributes to dissemination of the Convention. The plan, formulated by the Ministry of Internal Affairs, is designed to strengthen understanding of and trust in the police and to influence public safety issues related to children and teenagers (bullying in school, youth gangs, access to drugs and alcohol, risks associated with the use of the Internet and information technology).

57. The autonomous communities have been instrumental in disseminating and raising awareness of the rights of children and teenagers through initiatives such as campaigns, television programmes, the organization of annual awards, the development of school materials for children and teachers, workshops on child participation and other training activities.

Cooperation of civil society bodies in the follow-up to the implementation of the Convention on the Rights of the Child

58. Non-governmental organizations play a key role in raising awareness, promoting dialogue and advocacy, exposing situations where children's rights are being violated and cooperating with the public authorities in the preparation and conduct of a wide range of action and intervention programmes.

59. They also play a role in planning and monitoring implementation of the Convention, through programmes to promote children's education, health and quality of life and through their active participation in efforts to uphold children's rights, funded by subsidies from the public authorities.⁸

60. The Children's Platform, which comprises 58 entities, plays a central role in this follow-up process by drafting reports which complement implementation of the Convention on the Rights of the Child and by compiling contributions by children and teenagers relating both to the national strategic plans for children and to the aforementioned reports.

II. Definition of the child

61. Under Spanish law, the age of majority is set at 18.

62. In compliance with the Committee's recommendation, pursuant to Act No. 15/2015 of 2 July 2015 on non-contentious jurisdiction, the minimum age of marriage has been raised from 14 to 16.

III. General principles

(a) Non-discrimination

63. The core report submitted by the Spanish Government sets out the general policies based on this principle.

⁸ Over the period 2010–2015, the Ministry of Health, Social Services and Equality has subsidized such programmes to a total amount of €48,232,268. See annex.

64. The new legal framework for the protection of children and young persons recognizes equality of opportunity and rejection of discrimination on any grounds as the guiding principle of administrative action.

65. The second national strategic plan also includes among its fundamental principles the rejection of discrimination under any circumstances against children and young persons, their parents or legal guardians and also measures to defend and uphold equality among children and young persons.

66. With a view to the application of these measures, awareness-raising activities have been launched, such as the “YoSoyTú” (“I am you”) Internet campaign, in 2013 and 2015, and the dissemination over social networks of a citizen’s guide to gender and equality in diversity, for teachers in the compulsory secondary education system and at the baccalaureate level (in 2013).

67. A prominent place among the Government’s initiatives is occupied by the comprehensive strategy mounted by the Ministry of Employment and Social Security against racism, racial discrimination, xenophobia and related intolerance, which includes a training project on the prevention and detection of racism, xenophobia and related intolerance in the classroom (known as FRIDA), aimed at training and awareness-raising in human rights for teachers and heads of educational establishments, which involved the participation of the Ministry of Education, Culture and Sport and the autonomous communities.

68. Where children and young persons of Roma origin are concerned, their integration and protection constitute a priority of the second national strategic plan, in particular in the domain of education. The 2012–2020 national strategy for the social inclusion of the Roma population in Spain shows that clear progress has been made in their enrolment in kindergartens and primary schools. Although their kindergarten enrolment rates are still lower than those of the population as a whole, they have risen in recent years.

69. Where primary education is concerned, their school attendance has been more or less brought up to the required standard, although truancy and dropout rates continue to be of concern, as these increase in the first cycle of secondary education, where the situation is worse for Roma girls.⁹ While the participation of young Roma in post-compulsory education remains very low, the gap between them and the population as a whole is still very wide.

70. In some autonomous communities, including Castile and León, programmes are being run to address this problem, such as the remedial education and support measures under the programme to improve educational results implemented by the Roma Secretariat Foundation.

71. The authorities and civil society associations are concerned by the settlement of Roma families from Eastern Europe in some Spanish cities, in situations where not all the rights of their children can be fully guaranteed. For this reason, further efforts are needed to tackle this issue.

72. To avoid discrimination against foreign children and youngsters living in Spain, the country’s new child protection legislation recognizes their right to education, health care and basic social services and benefits on the same footing as Spanish children. The law determines that, in cases where these children and young people have to be sheltered, the

⁹ “El alumnado gitano en secundaria. Un estudio comparado” (“Roma students at the secondary level. A comparative study”), Ministry of Education, Culture and Sport and the Roma Secretariat Foundation, 2013.

State must promptly equip them with documentation certifying their situation and grant them residence permits (see chapter IX).

73. With regard to efforts by the public authorities to eliminate any discrimination against children with disabilities, regulations in this area are being strengthened through the reform of State policy, within the framework of the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities, making it mandatory for the public authorities to ensure the welfare of such children, guided by the principles of equal opportunity and non-discrimination, universal accessibility, inclusion and the full and effective participation of children and young people with disabilities.

74. It is also obligatory to ensure the accessibility of materials and services — including those of a technological nature — and of the areas in which they conduct their social, cultural, artistic and recreational activities (see chapter VII).

(b) Best interests of the child (art. 3)

75. Organization Act 8/2015 incorporates the best interests of the child as a cross-cutting theme of the reforms under way in the area of the protection of children and young people, reaffirming its role as a fundamental principle in three dimensions: as a substantive right, as a fundamental, interpretative legal principle and as a rule of procedure, following the recommendations of the Committee's general comment No. 14.

76. The determination of the best interests of the child is based on accepted criteria and universal values recognized by the legislature, which must be taken into account in each case and weighted in accordance with the particular elements and circumstances. These must be spelled out in the grounds for the decision, with a view to ascertaining whether or not the principle has been properly applied.

77. The laws adopted since 2010 by the autonomous communities (Cantabria, Castile-La Mancha, Catalonia and Galicia) extensively incorporate this principle, while the matter is regulated in greater depth and detail by the new national law.

78. In the planning of public policy on children and young people, priority is given to the best interests of the child. In the second national strategic plan, this principle is upheld as a beacon guiding the activities of institutions, both public and private.

79. This guiding principle is reflected in the new State legislation, which requires that any possible impact on childhood and adolescence must be reflected in the documentation accompanying the draft legislation.

(c) Right to life, survival and development

80. Life expectancy in Spain is 82.8 years (85.5 for women and 79.9 for men), which is more than three years longer than it was in 2000, and places Spain at the forefront of the countries of the European Union.

81. The infant mortality rate has been steadily declining: in 2013 there were 2.7 deaths per 1,000 infants under 1 year of age, which was an improvement over the 2009 (3.2 per 1,000) and 2002 (4.3 per 1,000) rates.

82. Where violent deaths are concerned, 17 children and teenagers were the victims of infanticide in 2013, 19 in 2011 and 21 in 2010; in addition, in 2013, 9 suicides of children under the age of 15 were recorded, representing a rate of 0.127 per 100,000 inhabitants, a slight increase over the rates for 2010 (0.04) and 2006 (0.078).

83. Spanish legislation enshrines the right of children and young people to life and the development of their capabilities. In that context, the second national strategic plan proposes measures to uphold these rights for children in situations of social exclusion, by

ensuring that attention is given to such families by the social services and that stronger measures are taken with the most vulnerable groups.

(d) Respect for the views of the child

84. Organization Act No. 8/2015 strengthens the participatory right of children and young persons by amending article 9 of Organization Act No. 1/1996, which regulates the right of the child to be heard and listened to without discrimination on the grounds of age, disability or any other circumstance.

85. This right affects the family and is of relevance to any administrative or judicial proceedings in which children and young persons are involved or which have an impact on their personal, family or social circumstances, and their views are to be taken into consideration in accordance with their age and maturity. The term “judgment” has been replaced by “maturity”, which, in all cases, is deemed to be sufficient when the child attains the age of 12. This provision has been introduced into the protection procedures emanating from Act No. 26/2015 relating to family placement, parental authority, adoption, visitation arrangements, risk and abandonment.

86. To ensure that children and young persons can exercise this right, the information should be made available to them in an understandable form and in accessible and suitably adapted formats. Priority shall be given to hearings of minors in judicial or administrative proceedings and these shall be conducted in a manner appropriate to their situation and level of development.

87. This legal amendment also applies to hearings held on the issue of custody and other immigration-related cases involving children and teenagers, although Royal Decree No. 557/2011 of 20 April 2011, approving the regulations under Organization Act No. 4/2000, on the rights and freedoms of foreigners in Spain and their social integration, specifically highlighted the importance, in respect of unaccompanied foreign minors, of hearing the minors themselves, if they possess sufficient capacity of judgment and in any event if they are aged 12 and older.

88. In repatriation cases, those over the age of 16 and under 18 are accorded legal capacity to act in such proceedings. They may appear in person or act through their designated representatives.

89. Where the participatory rights of children are concerned, children and young persons have the right to participate fully in social, cultural, artistic and recreational activities in their environs and to be gradually brought into active civic life. It places upon the public authorities the obligation to promote the creation of participatory bodies for children and young persons.

90. Act No. 45/2015, of 15 October 2015, on volunteering, provides that minors may serve as volunteers provided that their best interests are respected in accordance with the law and the specific authorization requirements. The State strategy on voluntary service for the period 2010–2014 already incorporated provisions promoting the values of communal volunteering among schoolchildren.

91. The second national strategic plan promotes the participation of children in public institutions and the importance of consulting children and young persons in the development of plans for their benefit and in the preparation of studies on their situation.

92. Examples of such undertakings include the child-friendly cities programme¹⁰ mounted by the UNICEF Spanish Committee, with the collaboration of the Spanish Federation of Municipalities and Provinces and the University Institute on the Needs and Rights of Children, and the inclusivity-oriented programme run by the Children's Platform to ensure children's participation in follow-up to the Convention on the Rights of the Child and a networking approach to policies for children, both subsidized by the Ministry of Health, Social Services and Equality.

93. Children have been involved in the design and development of both the first and second national strategic plans through meetings and educational workshops convened by child-welfare organizations and also in the dissemination of and follow-up to the plans' activities through specially adapted versions of both plans, prepared by the Children's Platform under child-friendly titles.

94. In the autonomous communities, structures have been created for the participation of children and young people, such as the municipal children and young people's participatory groups in Asturias and the Basque Country, forums for children and adolescents in Asturias, local councils for children's and young persons' welfare, commissions for the participation of children and young persons and the spokespersons commission in Madrid, which has representatives from among the children living in children's homes. Similarly, regional meetings of children's councils are held in Castile and León, together with national meetings of children's and young persons' participatory councils on the initiative of different civil society organizations.

95. Children and young people have participated in the development of plans for their benefit in autonomous communities, such as Andalusia and Asturias, and due account is taken of their views in surveys of the situation of children, such as that conducted in 2014 by the Board of Castile and Leon, in conjunction with UNICEF. In many municipalities the model proposed by the child-friendly cities programme is being promoted, which has as one of its prerequisites that standing bodies must be established to ensure that children and young persons are able to exercise their right to be heard on the municipal affairs that concern them and to have their views taken into account.

IV. Civil rights and freedoms

96. With regard to the right of minors to an identity and to know their origins, Act No. 20/2011 of 21 July 2011, of the Civil Registry, establishes the first name and surname as an element of a child's identity which derives from the right to legal personality and, as such, forms part of the registration of birth. With the aim of promoting gender equality, the practice of putting the father's surname before that of the mother is being abandoned, enabling both parents to decide upon the order of surnames. Where filiation is concerned, no reference is made to filiation out of wedlock, which has exactly the same status as filiation within wedlock.

97. Act No. 19/2015 of 13 July 2015 on administrative reform measures in the field of the administration of justice and the civil registry, lays down security measures relating to the identity of children and to the determination, beyond any doubt, of a mother-child relationship through the conduct and, where appropriate, placement on record of the necessary medical, biometric and analytical tests. At the same time, increased checks are being carried out in cases where children who were born in health facilities after six months of pregnancy have died.

¹⁰ <http://ciudadesamigas.org/>.

Access to appropriate information media and protection of the rights of children and young persons

98. Organization Act No. 1/1996, which recognized the right of children and young persons to seek, receive and use the information appropriate to their level of development, as amended by Act No. 26/2015, includes computer and media skills as an indispensable tool to enable children and young people to develop their capacity for critical thinking and play an active role in a participatory society.

99. It also incorporates the need for the further adaptation of those skills at every developmental stage and places upon the public authorities the obligation to ensure that there is no discriminatory treatment in the media of children with disabilities.

100. Where self-regulation is concerned, the act requires the authorities and competent agencies to encourage media outlets to prepare and monitor the implementation of codes of conduct that safeguard the values of equality, solidarity, diversity and respect for others and limit access to images and digital content harmful to children and young persons.

Audiovisual content: safety and computer skills

(a) Audiovisual content

101. General Act No. 7/2010 on audiovisual communication, of 31 March 2010, regulates the obligations of public and private television companies in relation to children and young persons.

102. Extensive efforts have been made to come up with responsible programmes for children's prime-time viewing, in particular on the State-owned television channels.

103. The Spanish broadcasting corporation RTVE — the country's main broadcaster — has gone to considerable lengths to apply the Convention on the Rights of the Child, involving its entire network of operators and service providers in this undertaking.

104. Where television is concerned, RTVE and the Ministry of Health, Social Services and Equality are working together to develop ways of ensuring the healthy use of television, through awareness-raising and information campaigns. Every year, RTVE collaborates with the Crecer Jugando ("Growing through play") foundation in the conduct of a joint campaign under the slogan "One toy, one dream" and recently with the Ministry of Internal Affairs on the dissemination of announcements through the early warning system for disappeared children.

105. The main public channel devoted exclusively to children and young persons is Clan TV, with entertaining and child-friendly content which promotes the values of solidarity, diversity and respect for others. It has a web portal for children under the age of 14 which hosts content in English and Spanish. Since early 2012, this channel has maintained an agreement with the Spanish National Cybersecurity Institute (INCIBE), pursuant to which it undertakes to publish content on the Internet which fosters safe habits and also provides advice on Internet safety for parents and guardians.

106. The RTVE channel Teledeporte, taking advantage of the power of sport in promoting positive role models for children and young persons, advocates such values as discipline, hard work, team spirit and the promotion of healthy habits.

107. The public service function of all television stations is effectively monitored. Act No. 3/2013, of 4 June 2013, establishing the National Commission for Markets and Competition (CNMC), vests in the Commission responsibility for monitoring proper

performance of this function by the providers of State-level public service audiovisual communications.

108. In 2004, the main television operators signed a code on the self-regulation of television content and the welfare of children and on their joint monitoring commission, which is made up of operators and social agencies and which since 2011 has been working to amend the age ratings for various kinds of audiovisual content. It is now much easier and more straightforward to submit complaints via the website www.tvinfancia.es. In 2014, 131 such complaints were submitted.

109. Amendments have been made to self-regulatory codes that apply to children and young persons in different areas, such as the child-targeted advertising of toys and the advertising of foods and beverages for children, with a view to preventing obesity and promoting healthy living (known as the PAOS code).

110. Where public television stations in the autonomous communities are concerned, such as Radio Television Andaluza (Canal Sur), this channel includes in its standard programme contract a commitment to uphold all the interests of children through joint work with the Andalusia Audiovisual Council, which serves as a guarantor for the rights of users, to provide specific training of a multidisciplinary nature for its professionals on matters related to children and on specific programmes such as “La Banda”, which has a fan club of more than 200,000 members.

111. Where radio broadcasts are concerned, since 2010 the State-owned station, Radio Nacional de España, has taken the lead in broadcasting programmes designed for child listeners and conducting radio campaigns to promote the rights of children and young persons, such as the campaign on child awareness that has been run every year since 2011.

(b) Internet safety and computer proficiency

112. The issue of improving Internet safety and computer proficiency has been the object of efforts at the highest institutional and policy levels.

113. Organization Act No. 1/1996, amended by Act No. 26/2015, relates to the safety and responsibility of children and young persons in this area and to the detection of situations of risk arising from the use of new information and communications technologies. The act also deals with tools and strategies to confront such risks and provide protection against them.

114. In 2012, the Congress of Deputies set up a subcommission to study the social networks and the subcommission’s recommendations were approved in 2015. That same year, the Spanish Senate held a symposium on the risks to children and young persons of using social networks and its report was submitted in 2015.

115. In 2013 the Council of Ministers adopted the Digital Agenda for Spain, a strategy on digital activities and communications, the main objective of which was to boost confidence in the use of digital technology. The agenda was developed with the cooperation of all the relevant stakeholders.

116. To encourage Internet-related companies to adopt appropriate codes of conduct, a set of actions has been defined that will enable children and young persons to enjoy the benefits of the information society, while ensuring that they use the available tools in a safe and responsible manner and in full awareness of the potential risks.

117. The Digital Agenda is subdivided into several plans. The INCIBE 2013–2015 plan to build confidence in the digital domain included a plan for children on the Internet, under which arrangements were set in place for the labelling of digital content on networks for children and young persons and which encouraged the development and implementation of

industry-based voluntary codes of conduct and the formation of self-regulation and self-monitoring systems. In this context, a working group has been set up for the protection of children on the Internet, which includes representatives of the Ministry of Education, Culture and Sport, the Ministry of Health, Social Services and Equality, the Ministry of Internal Affairs, the Ministry of Justice, the Juvenile Prosecution Service, CNMC, the Spanish Data Protection Agency and the autonomous communities.

118. The Digital Agenda also includes a 2014–2017 action plan to promote the equality of women and men in the information society through its Diana programme, designed to ensure equality-oriented creative programming through the conduct of workshops in schools for children at primary and secondary level.

119. Since 2012, the Ministry of Internal Affairs and the Ministry of Energy, Industry and Tourism have been cooperating in the area of cybersecurity, providing technological support services to the State security forces in their efforts to combat cybercrime, such as pornography and online child sexual abuse.

120. Another initiative worth noting is the Menores OSI web portal set up by the Office for the Safety of Internet Users (OSI),¹¹ which is aimed at parents and educators and designed to promote the safe and responsible use of the Internet. The Ministry of Energy, Industry and Tourism and the Ministry of Education, Culture and Sport have developed joint teacher training activities.

121. Since 2015, the Ministry of Education, Culture and Sport and the Spanish Data Protection Agency have been collaborating on the training and awareness-raising of minors in the areas of privacy and data protection, in particular on the Internet.

122. The Ministry of Internal Affairs has launched Alertcops, a free application for smartphones and the first of its kind in the European Union, which enables persons to send out a geolocalized warning to the State security forces to alert them to an offence or risk situation of which they are potential victims or witnesses.

123. The autonomous communities are devising and implementing programmes and measures to serve the same purpose, which form part of their plans for children or families, as is the case in Madrid. A range of other measures are also being carried out, such as retreats and workshops to raise awareness and develop proposals.

V. Violence against children

124. See sections (b) and (c) of chapter X.

Abuse, neglect and corporal punishment

125. The review of the Criminal Code effected through Organization Act No. 1/2015 of 30 March 2015, which provides for the imposition of a reviewable life sentence for particularly serious acts of murder, including the killing of children under 16 years of age or of particularly vulnerable persons. In the offences of both robbery and burglary with violence, the use of children under the age of 16 in the commission of the offence is deemed to be an aggravating circumstance. Prior to the revision of the Code the age was set at 14 years.

¹¹ (<https://menores.osi.es/>.)

126. The second national strategic plan includes a package of measures on the prevention and detection of violence against children and young persons and on their treatment and care and most of these measures have now been put into effect.

127. Even though it is not a comprehensive law on violence against children, Act No. 26/2015 includes provisions to counter such violence as a cross-cutting objective. The guiding principles underlying the actions of the public authorities relating to children and young persons include protection from all forms of violence, including physical or psychological abuse, humiliating and degrading corporal punishment, neglect or negligent treatment, exploitation, including exploitation carried out through new technologies, sexual abuse, corruption, gender-based or domestic violence, violence in health, social or educational areas, including school bullying, and also the trafficking in and smuggling of human beings, female genital mutilation and all other forms of abuse.

128. The new legislation is in line with the definition of violence given in the Committee's general comment No. 13, which is considered to be an improvement over that in the previous legislation. It stipulates that the public authorities shall implement awareness-raising, prevention, detection, reporting, assistance and protection measures against all forms of violence against children and young persons, through procedures to ensure coordination and collaboration among the various government offices, partner organizations and competent services, to guarantee a comprehensive response.

129. To ensure the swifter detection and prevention of situations of child abuse, every person who is aware of an act constituting an offence against sexual freedom and integrity or the trafficking or exploitation of minors is duty-bound to bring it to the attention of the Public Prosecutor's Office. A new requirement has been introduced that persons seeking access to and wishing to exercise professions, trades and activities involving regular contact with minors may not have previous convictions for any offences against sexual freedom and integrity or for human trafficking for purposes of sexual exploitation, including pornography.

130. This provision is designed to comply with the Lanzarote Convention of the Council of Europe on the protection of children against sexual exploitation and sexual abuse and Directive 2011/93/EU of the European Parliament and Council, on combating the sexual abuse and sexual exploitation of children and child pornography.

131. Act No. 26/2015 provides for the establishment of a central register of sex offenders, established by Royal Decree No. 1110/2015 of 11 December 2015, which gives the identity of those convicted of offences against sexual freedom and integrity, human trafficking or the exploitation of minors and includes information on their DNA genetic profile, to prevent them, both in Spain and in other countries, from having access to minors and exercising professions, trades and activities involving regular contact with minors.

132. Where prevention and enhanced public security are concerned, in 2015 the Ministry of Internal Affairs set in place a common action procedure for the State security forces in cases where international notifications are received relating to persons with criminal records in other countries for offences of this nature who move to Spain and also for the detention of foreign citizens in Spain for the commission of such offences.

133. The Act also provides for the creation of a consolidated child abuse register, known as RUMI, which has now been in operation since 2010 at the State level through an online application. The entries in the register have steadily increased, providing essential information on the situation of child abuse in Spain.

134. With regard to children and young persons who are victims of gender-based violence, Organization Act No. 8/2015 has amended Act No. 1/2004 on comprehensive protection measures against gender-based violence to include specific recognition of such

victims and to ensure their visibility, stressing the obligation of judges to rule on precautionary and custodial measures, extending the range of situations where protection is needed and more strictly regulating the visiting arrangements.

135. Accordingly, the Ministry of Internal Affairs is updating the appraisal forms used in the Viogen national gender-violence risk assessment system, launched in 2007 to improve prevention, coordination and protection in the campaign against gender-based violence, with a view to ensuring that the necessary visibility is given to underage victims of these offences.

136. The 2014–2016 strategic plan for equal opportunities makes provision, under its specific objective to eradicate violence against women, for specific responses to particularly vulnerable groups such as girls and teenagers, giving greater visibility to other forms of violence such as forced marriages and trafficking in women and girls for the purposes of sexual exploitation.

137. In 2014, under the second national strategic plan, the Childhood Observatory approved an updated version of the basic code of action against child abuse in the family, with the aim of improving inter-agency coordination arrangements for the prevention of and response to child abuse, giving particular attention to cases where children and young persons were the victims of gender-based violence.

138. With regard to corporal or physical punishment, a range of positive parenting programmes have been promoted and financed by the central government authorities since 2010, funded by allocations from individual income tax revenues, which over the period 2010–2015 totalled €3,568,602.

139. The parents' associations also receive funding for the promotion of good treatment within the family and at school, with the aim of eradicating practices that are deeply entrenched in society. Over the period 2010–2015, the Confederation of Parents of Schoolchildren (CEAMPA) received grants amounting to €

140. Training units have also been set up by the central government authorities and the autonomous communities, offering face-to-face and online courses on parental control based on affection, support, communication, guidance and involvement in the daily lives of children.

141. Organization Act No. 7/2015, of 21 July 2015, amending the Judiciary Organization Act, makes provision for training courses on the protection of juvenile victims of offences, designed for those performing public functions in this area.

142. In addition, Act No. 26/2015 amended article 154 of the Civil Code to introduce stronger guarantees relating to the concept of parental authority, which — like parental responsibility — must always be exercised in the interests of the children, in a manner appropriate to their personality and with respect for their rights and their physical and mental integrity.

143. One of the strategic thrusts of the 2015–2017 comprehensive family support plan concerns the promotion of positive parenting, aimed at assisting parents in their work of bringing up and educating their children. The plan includes measures focused on social awareness and training support, also intended for policymakers and practitioners in the educational and social fields.

144. At the local level, importance is attached to the collaborative work between the Ministry of Health, Social Services and Equality and the Spanish Federation of Municipalities and Provinces in developing the online platform “Positive families” and the 2015 guide to good practices in positive parenting.

Measures to promote physical and psychological recovery and social reintegration of child victims

145. Act No. 4/2015, of 27 April 2015, on the status of victims of offences, provides for such measures specifically tailored to cases concerning children and young persons, including those subject to the guardianship, care or custody of women victims of gender-based violence or victims of domestic violence.

146. Royal Decree No. 1109/2015 of 11 December 2015 regulates the agencies providing assistance to victims of crime, which ensure special protection for the most vulnerable victims, including children and young persons, by providing for the possibility of adopting measures aimed at achieving their full recovery, making individual assessments of their needs and circumstances and taking other measures to avoid the risk of repeated victimization, intimidation or reprisals. In addition, the decree elaborates on the right of the victims to be kept informed, to receive adequate assistance and support and to obtain specific protective measures, according to their individual needs.

147. As for the policies applied, in addition to the programmes and services implemented by the autonomous communities, with subsidies drawn from individual income tax revenues, over the period 2010–2015 the Ministry of Health, Social Services and Equality provided funding to a total amount of €6.833.154 for programmes of this nature developed by NGOs, such as those implemented by the Margins and Linkages Foundation in Andalusia on the development of local prevention groups, the networking of practitioners of multidisciplinary services to standardize criteria and optimize resources for the preventive protection and monitoring of secondary victimization, or the work by the Trama Centre Association, which manages the CIASI centre set up to assist child victims of sexual abuse and their families in the community of Madrid, which takes a multidisciplinary approach to psychosocial and legal intervention, in coordination with other health-care, social, policy-related, legal and educational measures.

Helplines for children

148. Although several autonomous communities had already set up child protection helplines, in the further development of their child protection facilities, since 2012 all communities have had operational child helplines, using the Europe-wide number 116 111. This service is provided directly by the autonomous communities themselves (Andalusia, the Basque Country, Catalonia, Valencia and Galicia) or through collaboration with the Help to Children and Young Persons at Risk (ANAR) foundation (Murcia, Extremadura, Castile and León, Castile-La Mancha, Cantabria, Aragon, Asturias, Canary Islands, Ceuta, Melilla, Navarra, Madrid, Balearic Islands and La Rioja). In 2012, 17,561 telephone calls were received on this line and that number rose in 2014 to 24,557.

149. Since 1994, with funding provided by the Ministry of Health, Social Services and Equality, the ANAR foundation has provided a helpline for children and young persons (900 202010), which is free and confidential and operates throughout the country. In 2014, 350,227 calls were made on the helpline. In addition, it also runs a helpline for adults and families (on which 10,142 calls were made in 2014), aimed at adults who need guidance in various matters related to children and young persons. Under an agreement signed with the Government Office for Gender-based Violence, by calling 016 children and young persons who are victims of gender-based violence are able to obtain assistance from the foundation over the phone and, since 2010, by agreement with the Ministry of Internal Affairs, it has managed the 116 000 hotline for missing children.

VI. Family environment and alternative care

Family environment

150. See chapter VII of the present report.

Alternative care

151. Pursuant to Act No. 26/2015, a thorough review is being carried out of the institutions of the child protection system, to bring them into line with the United Nations Guidelines for the Alternative Care of Children.

152. Among other measures, amendments are being made to residential and family-based care arrangements, prioritizing permanent over temporary care, family-based over residential care and consensual over enforced care.

153. Provision will also be made for the temporary protection measures to be reviewed every three months in respect of children under the age of 3 and every six months for those under the age of 6. In the case of permanent care, the measures shall be reviewed every six months in the first year and every twelve months thereafter.

154. As envisaged in the second national strategic plan, under this Act foster care will be preferred to residential care, in particular for children under the age of 6, even more so for those under the age of 3. The constituent elements of foster care are being streamlined to render it more adaptable and to ensure that it upholds the best interests of the child; for that purpose the decision of the relevant public entity, duly communicated to the Public Prosecutor's Office, shall be sufficient. As a result, it is equivalent to residential care, even when there is no prior consent by parents or guardians, and their legal authority is not thereby compromised.

155. Among other innovations, regulations have been adopted on family care which set out the rights and obligations of care providers and specify the rights of juveniles in care, irrespective of the type of care arrangement in which they have been placed.

156. As was the case with adoption, it is now mandatory to assess the suitability of the care providers and, as a new element, to define the criteria for this assessment. The different categories of care have also been amended, to emergency, temporary (formerly known as simple) and permanent care, with the elimination of placement with a view to adoption, which has now been included as a stage in the adoption process. Depending on the type of association between the child and the care-providing family, this care may be provided in the child's own extended family or in an unrelated family. The latter type of care may be specialized, when any member of the care-providing family has specific qualifications, experience and training in the care of children with special needs or in special circumstances, is fully available and is receiving appropriate financial compensation. This type of care may be professionalized when, in addition to the conditions set out above, there is an employment relationship between the caregiver or caregivers and the relevant public entity.

157. It is emphasized that residential care is much less desirable than family-based care and restrictions are placed on the provision of such care to children under the ages of 3 and 6. In addition, the regulations spell out the characteristics and obligations of the centres, their compliance with criteria and quality standards, and the need for their certification and the subsequent monitoring and oversight of their operation.

158. Where the legislation of the autonomous communities is concerned, all the communities have regulations on the alternative care of children and young persons. In this context, the criteria used are essentially those set out in the new national legislation: children should by preference remain in their own families and be cared for by their family members rather than be placed in residential care.

159. The new legal framework also provides for the establishment of an effective interregional mechanism that makes it possible to assign care responsibilities for children with specified profiles to suitable families of such children in autonomous communities where there are no available families that can provide care for those children or accept them for adoption.

Children and young persons with behavioural problems

160. Organization Act No. 8/2015 is the first statutory instrument to regulate centres for minors with behavioural problems. The Act accords the highest priority to the regulation of this issue, in keeping with the special nature of such centres, making provision for the use of security measures and the restriction of fundamental freedoms or rights in the performance of their functions.

161. The Act defines such children and young persons as “juveniles under the custody or guardianship of a public institution, who have been diagnosed with behavioural problems and are prone to recurrent acts of disruptive or antisocial conduct which run counter to social norms and infringe the rights of third parties”.

162. For admission to such centres, it is imperative that the public institution assumes responsibility for the care or guardianship of children and young persons who exhibit the deviant characteristics or behavioural problems covered by the Act.

163. Placement in these centres will only be used as a last resort in cases where the application of other protective measures is not feasible. The Act expressly states that the measures to be applied must always be educational in nature and be designed to restore normal behaviour and, where possible, to promote reintegration into the family and free and harmonious personality development.

164. Generally speaking, admission to such centres requires a court order, following a hearing with the minor in accordance with the provisions set out in the Act. An application for admission may be lodged by the public institution or the Public Prosecutor’s Office, with reasons given and duly substantiated by psychological reports issued beforehand by child protection specialists.

165. If, however, for duly substantiated reasons, urgent admission is necessary, the public institution or the Public Prosecutor’s Office may approve it prior to the issuance of a court order, on condition that the competent court is notified as soon as possible and within a period of 24 hours for the purposes of obtaining the mandatory authorization. The court shall make its ruling no later than 72 hours from the moment of receipt of the notification and, if it does not approve the request for admission, it shall be immediately revoked.

166. The Act stipulates that children and young persons have the right to submit confidential complaints to the Public Prosecutor’s Office, to the competent judicial authority and to the Ombudsman or comparable office in the autonomous communities, although there is no independent, ad hoc body specifically set up to monitor the conditions of admission. This right cannot be restricted by the imposition of disciplinary measures and the Act provides that children and young persons “may not remain in the centre longer than is strictly necessary to meet their specific needs”.

167. Where monitoring of the admission procedure is concerned, the Act provides that it shall be subject to quarterly review by the public institution, which shall duly notify the Public Prosecutor's Office and the court which authorized the admission, forwarding to them a duly substantiated follow-up report listing the entries in the incident log. Both the Ombudsman (and comparable authorities within the autonomous communities) and the Public Prosecutor's Office are entitled to carry out inspection visits to the centres.

168. Attention is drawn to the work carried out by the Ombudsman's Office as the national mechanism for the prevention of torture, which, since 2012, has been operating a system of regular visits to custodial facilities, such as juvenile detention centres and centres for children with behavioural problems, with the aim of preventing torture and other cruel, inhumane or degrading treatment or punishment, including that inflicted on children and young persons.

169. The Ministry of Health, Social Services and Equality provides support to NGOs in the conduct of programmes to promote healthy family relations, for the prevention and management of family conflicts and the provision of mediation services for parents and teenage children at risk. Over the period 2010–2015, a total of €1,466,312.84 was allocated for such programmes.

Adoption

170. There has been a sharp decline in intercountry adoption, which dropped from 2,891 adoptions in 2010 to 824 in 2014, in line with a general decrease in adoptions throughout the world.

171. Act No. 26/2015 stresses that the best interests of the child must be the primary consideration in any adoption. Some important new measures have been introduced to ensure respect for the rights of the child in the various stages of the process of intercountry adoption.

172. At the pre-adoption stage, the child's protection is the paramount consideration in the process, when future adoptive parents are defined as persons who have expressed willingness to adopt, rather than as applicants. The obligations of the adoptive parents are clearly spelled out (gathering information, undergoing training and engaging in psychological and social study).

173. On the question of fitness to adopt, the right to adopt is withheld from persons deprived of parental rights or whose parental rights have been suspended or who have handed custody of a child to a public institution and also from those who do not meet the necessary conditions to serve as guardians. A further provision has been added regarding the maximum age difference between adoptive parents and the adopted child, to ensure harmonization of the rules of the autonomous communities and that the suitability of adoptive parents is duly confirmed prior to submission of their application to adopt.

174. At the post-adoption stage, the obligations of the adoptive parents are even more clearly specified, stipulating the legal consequences of failure to comply with the obligations entered into with the countries of origin of the adopted children and young persons, in particular with regard to the submission of follow-up reports.

175. The Act reinforces the right of adopted persons to know their origins, requiring the competent public entities to preserve and make available information on the origins of children and young persons.

176. Under the new Act, the central government authorities have the responsibility, in consultation with the autonomous communities, of deciding on the initiation, suspension or limitation of the processing of adoptions with certain countries and also on the

accreditation, monitoring and follow-up of the accredited adoption agencies, with regard to the intermediary activities to be carried out in the countries of origin of the adoptive children. The Act strengthens the safeguards applicable to intercountry adoptions, stipulating that the processing of adoptions between central government authorities may only take place through accredited adoption agencies and only in exceptional cases and in countries which are signatories to the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption.

177. Figures for 2014 show that 68.3 per cent of intercountry adoptions were conducted with countries signatory to the Hague Convention, compared to 31.7 per cent with non-signatory countries; 19.53 per cent of adoptions were from the Russian Federation — a country with which a cooperation agreement was signed in July 2014 on the adoption of boys and girls — and 9.58 per cent from Ethiopia.

178. The new Act strengthens the guarantees relating to intercountry adoptions with countries that are not signatories to the Hague Convention, respecting its underlying principles and taking on board the standards and safeguards provided for in that Convention in the conclusion of bilateral treaties or agreements with non-signatory States.

179. Act No. 54/2007 of 28 December 2007, on intercountry adoption, requires that applications for the adoption of foreign minors who have been brought to Spain on time-limited humanitarian programmes for the purposes of holidays, study or medical treatment, may only be processed once those programmes have been completed in accordance with the conditions for which they were established and that the children concerned should be included in properly regulated adoption programmes in their country of origin.

180. Spain processes adoptions of children from countries such as Ethiopia, which requires accredited adoption agencies to perform cooperation services and to maintain programmes of this nature in the communities of origin of the adopted children.

181. The Act introduces new elements in the rules of private international law, for example by amending the procedures for ordinary adoption, adoptions arranged through consular offices and adoptions that are legal in the country where the child is going to reside on a permanent basis but not in the child's country of origin, and the provisions concerning the international jurisdiction of the foreign authority and the conversion of simple adoptions to full adoptions. It stipulates that Spain will not recognize adoptions constituted abroad in a manner contrary to the fundamental principles underpinning the Spanish legal order, which uphold the best interests of the child, in particular in cases of children not eligible for adoption because free and informed consent not involving the exchange of any form of remuneration has not been given by their legal guardians.

182. It also regulates cooperation between the competent authorities of the States concerned, in the case of adoptions carried out by Spanish adoptive parents resident in the country of origin of the adoptee, and provides for the recognition of dual citizenship in cases of intercountry adoption where the laws of the country of origin accommodate the retention of nationality by adopted children.

183. In the autonomous communities initiatives have been taken to ensure that updated information is available on adoption. In Castile and León, for example, this is provided through a standardized information service for all national and international adoption applicants, available both face-to-face and via its website, and in coordination with the information services of the Ministry of Health, Social Services and Equality and the International Social Service or other international bodies, and also through the preparation of an annual information bulletin on this matter.

Children in prison with their mothers

184. Spanish legislation provides for the right of mothers to keep their children with them until they reach the age of 3 (article 38 of Organization Act No. 1/1979 of 26 September 1979, on the correctional system).

185. Since 2005, Spanish prisons have been equipped with special units for mothers, which in 2015 accommodated some 135 children under the age of 3, with specific programmes for mothers and children.

VII. Disability, basic health and welfare

Disability

186. The Convention on the Rights of Persons with Disabilities and its Optional Protocol gave impetus to the adoption of public policies on disability, strengthening guarantees of the dignity, independence and active participation of children and young persons with disabilities, through the implementation of planned specific measures.¹²

187. Royal Decree No. 1/2013, of 29 November 2013, adopting the consolidated text of the General Act on the rights of persons with disabilities and their social inclusion, strengthens the protection of children and young persons with disabilities, in particular with regard to participation, the right freely and on an equal footing to express their opinions, the development of their personality, inclusive education and family support services.

188. Act No. 39/2006, of 14 December 2006, on the promotion of personal independence and care for persons in a situation of dependency is now being fully implemented. This Act provided for the adoption of a comprehensive plan for the care of children in situations of dependency, pursuant to which unified standards, recommendations and minimum conditions were adopted in July 2013 for such plans for children under the age of 3 in situations of dependency or at risk of being placed in dependency.

189. Many autonomous communities have updated their plans to bring them into line with these standards: Asturias, the Balearic Islands, Castile and León, Castile-La Mancha, Catalonia, Galicia and La Rioja. As at 31 December 2015, 53,741 children under the age of 18 were beneficiaries of the system for the self-sufficiency and care of those in a position of dependency (6.75 per cent of the total number of beneficiaries), of whom 3,153 were under the age of 3 (0.40 per cent of the total).

190. The protection and specialized care of children and young persons with disabilities are constant priorities in child-oriented actions, thus ensuring that the principle of non-discrimination on the grounds of disability is applied in a cross-cutting manner, both in the second national strategic plan and in Act No. 26/2015, which has substantially strengthened the protection of such children and young persons.

191. Special emphasis has also been placed on the right to receive specialized services, to live in accessible physical environments and to use accessible technology and to receive the necessary protection from ill-treatment.

¹² See the first report submitted by Spain in September 2011 to the United Nations Ad Hoc Committee on a Comprehensive and Integral International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities and the concluding recommendations to Spain.

192. The Act has adapted its wording to the language of the Convention on the Rights of Persons with Disabilities, replacing the Spanish term “deficiencia” (“handicap”) with “discapacidad” (“disability”). In addition to ensuring that the best interests of children are upheld without discrimination on the grounds of their disability, special importance is attached to their needs and to the preparation and training of professionals in the assessment of such needs through a process of compiling reports and setting up specialized technical teams in response to decisions to that effect.

193. Where the training of professionals is concerned, attention is drawn to initiatives mounted by the Ministry of Internal Affairs, such as the guide concerning persons with intellectual disabilities, prepared by the Civil Guard in collaboration with the Carmen Pardo-Valcarce Foundation, or the agreement between the national police and the ONCE Foundation to promote inclusive activities for persons with disabilities.

194. In its 2011 report on child abuse in the family in Spain, the Ministry of Health, Social Services and Equality found that children and young persons with disabilities suffer higher rates of abuse (23.08 per cent) than those with no disabilities (3.87 per cent), leading to the conclusion that disability increases the risk of ill-treatment.

195. In 2015, the State programme for the study, prevention and intervention in cases of violence against children and young persons with intellectual or developmental disabilities was launched at the National University of Distance Education in coordination with the Spanish Federation of Associations for the Prevention of Child Abuse and the network to end child prostitution, child pornography and trafficking of children for sexual purposes (FAPMI-ECPAT), with support from the Ministry of Health, Social Services and Equality.

196. Where public policies in this area are concerned, in addition to national action plans and strategies on disability and its effect on children, various other plans have been adopted, such as the 2011 Ministry of Education, Culture and Sport plan for the inclusion of pupils with special educational needs, which brings together activities by the educational authorities developed in line with the principle of inclusive education, the 2015 Spanish strategy on autism spectrum disorders and the 2014 national health system strategy on rare health disorders.

197. The Ministry of Education, Culture and Sport was behind the creation in 2010 of the forum for the educational inclusion of pupils with disabilities, which, in addition to leading the way in ensuring an inclusive approach in statutory instruments on education, grants annual subsidies to specialized NGOs and draws up cooperation agreements with various civil society entities and organizations relating to special educational needs.

198. The autonomous communities have worked to ensure more robust guarantees of the rights of children and young persons with disabilities, in particular with regard to early care (Galicia, the Basque Country, La Rioja, Andalusia and Madrid).

Health and health services

199. In 2013, the interregional council of the national health system adopted its strategy for the promotion of health and prevention, giving priority in its first phase to children under the age of 15, with the aim of promoting healthy lifestyles, environments and safe behaviour through the coordination of comprehensive interventions in the areas of health, family and community welfare and education, in addition to promoting emotional well-being. The strategy also addresses all the major health-risk factors and their interconnections, the prevention of road accidents, awareness and control of child cancer and palliative paediatric care.

200. The second national strategic plan sets as one of its objectives the promotion of actions to ensure the fullest exercise of the right to health of children and young persons, from health promotion to rehabilitation, giving priority to the most vulnerable populations, including measures on substance abuse by young persons, the control of childhood obesity and health care for children and young persons.

201. At the autonomous community level, some important measures have been implemented, such as the provision of school tuition in hospitals (Andalusia, Asturias), units for the care of minors with psychological problems (Madrid), programmes on sex education and the prevention of unwanted pregnancies (Madrid and Asturias).

202. Almost all the autonomous communities have carried out interventions of a public health nature, including the promotion of physical activity, balanced diets, discouraging smoking, encouraging healthy lifestyles and conducting health education programmes.

203. The national health system's mental health strategy for the period 2009–2013 promoted the mental health of the general population through a range of specific and specialized measures geared towards different age groups or stages of life and recommended the development of treatment protocols for a number of conditions, including both common and more serious mental disorders in children and young persons and general developmental disorders.

204. In addition to an appraisal of the general health of children and young persons in Spain, actions carried out under the strategy include the development of a mental health plan for children and young persons.

205. Organization Act No. 8/2015 specifies that children and young persons presenting with symptoms of mental illnesses or disorders that require specialized treatment by the mental health services or those caring for persons with disabilities may not be admitted to centres for the specific protection of children with behavioural problems.

206. The second national strategic plan focuses on the care to be provided to persons with impairments and on the mental health of children and young persons and includes measures for the prevention of over-medication and accidental poisoning through diagnosis and appropriate treatment designed to prevent substance abuse by children diagnosed with attention deficit hyperactivity disorder (ADHD) and other behavioural problems.

207. In their health plans virtually all the autonomous communities have included measures to adapt their services to the mental health needs of children and young persons.

Adolescent health

208. According to figures from the survey on drug use in secondary education in Spain, over the period 2012–2013, 74 per cent of children aged between 14 and 18 years reported having consumed alcohol in the previous 30 days and 13 per cent smoked on a daily basis. In addition, the survey shows that the drugs most used by young people are legally tradable (alcohol and tobacco), followed by cannabis, and that the use of legal drugs is more widespread among women and that of illegal drugs more widespread among men. The average age of initiation to drug-use is between 13 and 16 and shows a steady growing trend.

209. In 2012, Spain launched an early warning system to detect the possible use of new drugs on the market and has played a pioneer role in exploring the prevalence of such new drugs.

210. The 2009–2016 national drug strategy and its 2013–2016 action plan include measures targeted at the protection of children and young persons and designed to enhance social awareness of the risks of drug use and measures available to young persons to protect themselves from drugs and to delay the age of initiation to drug use. With regard to the reduction of demand for drugs and control of their supply, a range of activities have been undertaken, such as the development of a communication plan, prevention projects for vulnerable children and young persons and for families, improved detection and early intervention procedures and an improved plan to suppress drug trafficking around schools and leisure areas.

211. The second national strategic plan includes measures relating to the prevention of diseases, risk behaviour, substance abuse and unwanted pregnancies, to health promotion in schools and to consumer education.

212. The local police guardianship programme (run by the Government Office for the National Plan on Drugs and the Spanish Federation of Municipalities and Provinces) is designed to promote respect for the rights of children through a specialized service provided by local police, who are assigned to carry out preventive activities for children and young persons, in collaboration with the educational community and in coordination with other professionals in the network of municipal authorities. Following the launch of the framework protocol of the guardianship programme and thanks to its dissemination at the local level it has been possible to consolidate work in this area, which has yielded effective results in the area of prevention.

213. Where childhood obesity is concerned, figures from the Spanish national health survey for 2011–2012 show that 18.30 per cent of children and young persons are overweight and 9.6 are per cent obese. Eating disorders affect between 4.1 and 4.5 per cent of the country's young people.

214. In 2013, the observatory on nutrition and the analysis of obesity was set up, with the primary purpose of improving diets and life habits among children. To raise awareness among members of the public about the risks associated with child obesity, a number of activities have been carried out by such bodies as the Spanish Consumption, Food Security and Nutrition Agency and the Atresmedia media group. In addition, the Activilandia virtual theme park has been created, with the aim of promoting healthy habits in children aged between 6 and 12. The PAOS self-regulatory code for food and beverage advertising targeted at children, designed to prevent obesity and to promote health, was also updated in 2012 and 2013.

Welfare and standard of living

215. The global financial crisis that erupted in 2008 provoked one of the worst economic and employment crises in our country's recent history, with particularly severe impacts on families, primarily those with children, causing an increase in child poverty rates, as also happened in many other countries in our region.

216. The recession has not affected the whole population to the same extent and families with dependent children (in particular, single-parent and large families) have been hit the worst.

217. Where persons under the age of 18 are concerned, the AROPE indicator, measuring the proportion of the population at risk of poverty or social exclusion, rose by 2.5 percentage points between 2010 and 2014, from a rate of 33.3 per cent. The first of its aggregate indicators, the risk-of-poverty rate, rose by 1.2 percentage points, from 29.3 to 30.5 per cent, during the period in question and is 8.3 percentage points higher than that for the population as a whole.

218. The second aggregate indicator, the material deprivation rate, rose by 2.1 percentage points, from 7.4 per cent in 2010 to 9.5 per cent in 2014 (2 percentage points higher than that of the population as a whole).

219. The third aggregate indicator, on the percentage of children and young persons living in households with very low employment levels, has shown the most negative trend, rising from 9.1 per cent in 2010 to 14.2 per cent in 2014, or 3 percentage points higher than that of the population as a whole.

(a) Child poverty alleviation

220. The February 2013 European Commission recommendation: “Investing in children: breaking the cycle of disadvantage”, has been taken as the road map for efforts at the national level to combat child poverty, following the necessary multidimensional approach. Spain has set as a priority the adoption of policies, both comprehensive in nature and those with a specific focus, to tackle this issue, primarily by raising the income levels of households through quality employment, appropriate social protection and an inclusive education policy.

221. Legislation adopted over the last few years that has a direct impact on efforts to combat child poverty is linked with employment and the protection of families with limited economic resources.

222. Where labour legislation is concerned, pursuant to Royal Decree-Law No. 1/2011 of 11 February 2011, on urgent measures to promote the transition to stable employment and the vocational retraining of unemployed persons, the PREPARA programme was launched, for the benefit of families caring for children and young persons, and in 2012 and 2013 the programme was reoriented to the protection of the long-term unemployed or jobless persons with dependants. Since December 2011 more than 572,000 people have benefited from this programme, at a total cost of over €1,390 million. In 2015, a total of €285 million was allocated for this programme.

223. Royal Decree-Law No. 16/2014 of 19 December 2014, which regulates the job-creation programme, has an indirect impact on the situation of material deprivation suffered by some children and young persons. It is designed to benefit the more than 400,000 long-term unemployed persons with family responsibilities who receive no form of assistance, by endeavouring to ensure their active inclusion, and will be compatible with employment for periods of up to five months. The programme costs amounted to €1 billion in 2014 and €850 million in 2015.

224. To reduce the debt burden of families and households, arrangements have been put in place to facilitate the restructuring of mortgages as an alternative to forced evictions.

225. In 2012, a code of good practices for the viable restructuring of debts secured by a mortgage on a principal residence was drawn up pursuant to Royal Decree No. 6/2012 of 9 March 2012. The code, which has been adopted by the entire financial system, makes possible the restructuring of mortgages taken out on the homes of families in situations of particular vulnerability and provides for debt relief and, where these provisions are not feasible, the transfer of title in lieu of payment and retention of the property on a lease with reduced rental. Since these measures were put in place and until September 2015, 18,620 debt restructuring exercises have been carried out and 5,014 titles transferred in lieu of payment.

226. Under Royal Decree-Law No. 27/2012 of 15 November 2012, on urgent measures to strengthen the protection of mortgage holders, it was agreed to suspend for two years the initiation of eviction proceedings against all mortgage holders who were in a situation of

particular vulnerability and this suspension was extended to the year 2017, placing a moratorium on over 17,000 such proceedings.

227. The creation of a social housing fund, consisting of housing provided by credit institutions, is designed to provide a safety-net for particularly vulnerable persons who have lost their homes in foreclosure proceedings. Since its creation in 2013, more than 4,000 families have benefited from the fund.

228. With the adoption of Act No. 1/2013, of 14 May 2013, on measures to strengthen the protection of mortgage holders, debt restructuring and public rental housing, those aspects of mortgage loans most detrimental to debtors were duly adjusted and Act No. 25/2015 of 28 July 2015, on the second chance system, debt relief and other social measures, made it possible to write off debts and to place a moratorium on foreclosure proceedings, while debt restructuring was being negotiated, with the inclusion of employment-related, judicial and family measures.

229. In addition, measures are being taken to help to achieve a better work-life balance (reduced working hours for self-employed persons with children under the age of 7 or in a situation of dependency) and also to extend the annual family subsidy of €1,200 to single parent families with two children. Electricity subsidies continue to be paid to large families and families with all their members out of work, under the social bonus system.

230. During 2014, discussions were launched on a tax reform with phased implementation in 2015 and 2016, which incorporates an extensive blanket reduction of the tax burden on taxpayers, increasing their disposable income and giving priority to the most disadvantaged groups: low and middle income earners, large and single-parent families and persons with disabilities.

231. To that same end, Royal Decree-Law No. 9/2015 of 10 July 2015, on urgent action to reduce the tax burden on taxpayers paying personal income tax and on other measures of an economic nature, eased the tax burden of families with dependent children. Large families, single-parent families with two dependent children or taxpayers caring for children or parents with disabilities are entitled to a tax rebate of €1,200, which may be granted in advance at a rate of €100 per month. According to figures from the Ministry of Finance and Public Administration, 750,000 families will benefit from these rebates. Taxpayers with incomes below €12,000 per annum shall be exempt from tax.

232. The Decree-Law also provides for the exemption from tax of financial benefits accorded by the autonomous communities in the form of the minimum income allowance (RMI), designed to ensure a subsistence-level income for persons with no income, together with other forms of assistance provided by the autonomous communities or by local authorities to meet the needs of groups at risk of social exclusion and in social emergencies and other basic needs of children or persons with disabilities, where financial resources are lacking.

233. Family benefits and allowances paid by any of the public authorities and linked to childbirth or the adoption, placement or care of minor children are exempt from tax and RMI and other benefits granted by the autonomous communities or local or central authorities for such purposes are immune from seizure.

234. In an endeavour to break the intergenerational cycle of poverty in Spain, efforts are being made to enhance the effectiveness and efficiency of public policies in the area of child welfare and family support, through such comprehensive and wide-reaching strategies such as the second national strategic plan and the second comprehensive family support plan, which build on the policy specially designed to combat social exclusion: the national action plan for social inclusion.

235. This plan, in pursuit of the objectives set in the Europe 2020 strategy, responds to needs arising from poverty and social exclusion that have been exacerbated by the economic crisis and aims to shore up the welfare State, ensuring its sustainability and viability by upgrading the social protection system.

236. The last national action plan for social inclusion, for the period 2013–2016, was the first such plan to incorporate the cross-cutting objective of combating child poverty, in line with the aforementioned recommendation of the European Commission and following a strategic approach based on active inclusion, in other words, dovetailing job-creation measures with measures guaranteeing income security and access to good-quality public services.

237. The campaign against child poverty covers the three areas identified in the European policy approach, by supporting the participation of parents in the job market, promoting a work and family balance and also providing a sufficient income in combination with social benefits, access to good-quality education, health care, social and housing services and support for the involvement of children in social, cultural, recreational, sports and civic activities.

238. A total amount of €136.5 billion has been allocated for attainment of the goals of the national action plan for social inclusion. Among the more noteworthy actions aimed at combating child poverty, attention is drawn in particular to the following:

- Increased funding of social emergency programmes, with the aim of setting up and maintaining soup kitchens, food deliveries and the provision of other essentials with subsidies drawn from individual income tax revenues, totalling €23,928,148.64 in 2015.
- Provision of special items to improve care for families with children in a situation of severe material deprivation, listed under the resource allocation section.
- Allocation in the distribution of the European Social Fund for 2014–2020 of at least 20 per cent of its endowments to the promotion of social inclusion, including measures to address child poverty in Spain.
- Continued efforts to ensure a basic network of protection through the public social services system. The instrument funding this network, which works through cooperation between the central Government, the autonomous communities and the local authorities, is the partnership plan for the provision of basic social services in local areas. In 2015 the Ministry of Health, Social Services and Equality maintained its contribution to the funding of the plan at a level of €27,413,730.

239. Steps have been taken to bolster the guarantee fund for maintenance payments for minor children or dependents of majority age having a degree of disability of at least 65 per cent who are members of vulnerable and low-income families. These steps have been taken to address the increase in total delinquent child support payments, which rose from €50,000 in 2012 to €3.5 million in 2015 and to €4.8 million in 2016.

240. In the autonomous communities, the RMI system is designed to provide financial support to persons and families in situations of greater vulnerability, with the greatest impact on households whose working-age members are heavily underemployed and those with dependent children.

241. Between 2008 and 2014, the number of recipients of RMI increased by 74 per cent, with over 261,000 new beneficiaries, which increased the cost of the system by 165 per cent, or more than €726 million.

242. The autonomous communities have been making increased efforts to combat child poverty. In Andalusia such strategies have been put in place as the Alliance to Protect Children from the Crisis, which includes coordination and collaborative arrangements and networking between the various Andalusian public authorities, civil society organizations and the private sector, to meet the basic needs of children under 14 years of age in situations of extreme poverty and those of their families. Extraordinary and emergency measures have been taken, which include a range of proposed child-protection initiatives, such as programmes to provide family financial support and to strengthen child nutrition.

243. In Madrid, the I+I programme has been developed for work with children and young persons at risk; it is a specialized service with trained educational teams offering personalized interventions following an inclusive approach. By taking a preventive approach, the programme aims to safeguard the family unit.

244. The collaboration of NGOs is crucial in the campaign against child poverty. The work performed by Caritas and the Spanish Red Cross is particularly worthy of note. Programmes implemented by these NGOs and subsidized from individual income tax revenues to enhance the quality of life of children and to protect children's rights received funding to the tune of €7,570,841.35 in 2010, rising to €8,650,754.51 in 2015.

(b) Framework for cooperation between different government agencies and other entities involved in efforts to combat child poverty

245. In Spain, enhancement of coordinated, complementary and effective action by all the public authorities and other relevant social and economic entities in this domain is deemed to be a high priority.

246. The aforementioned second national strategic plan and the second comprehensive family support plan, in combination with the national action plan for social inclusion, are coordinating their respective goals and actions and identifying the public agencies at various levels and other relevant entities which are to have management responsibility or to act as partners in each of the actions to be carried out.

247. Public-private partnerships are of particular importance in this domain and the third sector, on social action, has a key role to play.

248. A working group has been set up in the Childhood Observatory, made up of representatives of the national administration, the autonomous communities and the Spanish Federation of Municipalities and Provinces, in addition to child-welfare NGOs and individual experts, which has provided input for the national action plan for social inclusion.

249. In line with the aforementioned European Commission recommendation on investing in children, due importance is attached to the participation of children in efforts to combat poverty and, to that end, the use is encouraged of participatory methods that employ appropriate channels of communication, such as councils, clubs and venues where children and young persons can gather.

VIII. Education, leisure and cultural activities

250. By strengthening the provisions of the previous Educational Organization Act, Organization Act No. 8/2013 of 9 December 2013, on improving the quality of education, promotes high-quality education which is both comprehensive and inclusive, ensuring equal opportunities and fostering the development of capabilities for all schoolchildren. In line with the education-related goals of the second national strategic plan, the Act is also designed to prevent failure, absenteeism and dropping out of school.

251. Spain has worked hard to achieve the European target set by the Europe 2020 strategy. According to the latest figures from the Ministry of Education, Culture and Sport,¹³ the net enrolment rate in the 2013/14 school year was 96.3 per cent up to the age of 16; 90.1 per cent up to the age of 17; and 79.9 per cent up to the age of 18. The school drop-out rate in 2010 measured 28.2 per cent, declining to 21.9 per cent in 2014 and to 19.9 per cent in 2015.¹⁴

252. Thanks to this legislative reform, it has been possible to introduce some flexibility to the education system, surmounting its more rigid conditions and making it easier for children to remain at school. Under the provisions set out in the Act on the modernization of the syllabuses for vocational training, a new educational diploma course has been created in basic vocational training, with the aim of reducing dropout rates. In addition, it permits the granting of official certificates to pupils who have not concluded compulsory secondary education.

253. Following the principle that education should be inclusive and non-discriminatory, special attention is given to the situation of children with disabilities. In order to avoid segregated schooling, specially adapted procedures are followed for the admission of pupils to publicly funded educational establishments.

254. The number of foreign students enrolled in non-university educational establishments in the Spanish education system rose steadily over the period 2004–2014, from 460,518 in the 2004/05 school year to 736,249 in 2013/14, with a slight slowdown from 2009/10 attributable to fluctuations in the entry and exit of migrants and the procedures for the acquisition of Spanish nationality.

255. Where diversity of the student body is concerned, the second national strategic plan stresses the need to develop suggested curricula and organizational improvements that are appropriate to the different characteristics of students and conducive to their educational progress and success.

256. The 2010–2012 action plan for the development of the Roma population and the 2012–2020 national strategy for the social inclusion of the Roma population and its further elaboration in the 2014–2016 operational plan together establish a gender-mainstreaming approach that includes the promotion of gender equality in all measures undertaken in educational facilities for the benefit of Roma youth and their family members.

257. The enrolment rates of Roma children in primary education are close to 100 per cent.¹⁵ More than half of all Roma children are enrolled in the school system from the age of 3; in 90 per cent of cases, Roma children are enrolled in the school year appropriate to their age; a growing number of Roma families are taking the initiative to send their children to school. Progress has been achieved in providing continuing classroom assistance and improving the social interaction between Roma children in the educational institution and their classmates and teachers.

¹³ Facts and figures for the 2015/16 school year. Education. Ministry of Education, Culture and Sport (2015).

¹⁴ Percentage of the population aged 18–24 who have not completed the second stage of secondary education and are not undergoing any form of schooling or training.

¹⁵ Study “Evaluación de la normalización educativa de las alumnas y los alumnos gitanos en educación primaria” (“Assessment of the standardization of education for Roma girls and boys in primary education”), Roma Secretariat Foundation, jointly issued by the Women’s Institute (Ministry of Health, Social Services and Equality) and the Ministry of Education, Culture and Sport.

258. Where the State policy of scholarships and grants is concerned, the Ministry of Education, Culture and Sport offers scholarships for education beyond the obligatory stage and for students in need of educational support. In the 2013/14 school year, the grants and scholarships awarded by the education authorities totalled €1,899,366.1. The Ministry of Education, Culture and Sport provided 76.1 per cent of that funding. In that same year, a total of 1,977,723 recipients benefited from those scholarships and grants.

259. The right to participation cuts across all areas of the second national strategic plan, which stipulates the need to promote the processes of child participation in schools from primary education onward, with special emphasis on secondary education. The educational authorities ensure the involvement of the educational community in the monitoring and management of publicly funded centres through their school councils.

260. To promote community participation in these centres and to foster communal harmony, in 2013 the Ministry of Internal Affairs consolidated all the plans that had been in operation since 2007 into a permanent master plan for harmonious coexistence and improved safety in and around education centres, which responds in a well-coordinated and effective manner to issues related to the safety of children and teenagers in schools and their surrounding areas, strengthening police cooperation with the education authorities and promoting the conduct by police experts of targeted activities for schoolchildren and teaching staff.

261. Under the aforementioned Act on improving the quality of education, schools are obliged to develop plans for harmonious community relations, launching an annual programme of events and activities, identifying the specific rights and duties of schoolchildren and students and the relevant remedial measures, together with procedures for the settlement of conflicts, with particular attention to mechanisms designed to prevent gender-based violence and to promote equality and non-discrimination.

262. Where school bullying is concerned, as part of the formulation by the Ministry of Education, Culture and Sport of its strategic plan for harmonious community relations of schools, attention is drawn to the establishment of a free helpline for victims, the protocol on community relations for schools, developed in collaboration with the autonomous communities, the agreement on the training of teachers and children in the use of the Internet and social media, and the web page on harmonious community relations with schools, which is already up and running.

IX. Special protection measures

Children outside their countries of origin who are refugees or are seeking refugee status and unaccompanied foreign children

263. Spain observes the principle of non-refoulement enshrined in the 1951 Convention relating to the Status of Refugees, the Charter of Fundamental Rights of the European Union and in the legal instruments under European Union law that make up the common European asylum system. Act No. 12/2009, of 30 October 2009, regulating the right to asylum and subsidiary protection, includes provisions applicable to each and every one of the applicants for international protection.

264. Regulation (EU) No. 604/2013 of the European Parliament and of the Council of 26 June 2013, establishing the criteria and mechanisms for determining the member State responsible for examining an application for international protection lodged in one of the member States by a third-country national or a stateless person, sets out safeguards for children and young persons seeking refugee status, since member States are obliged to give

primary consideration to the best interests of the child in all the procedures stipulated under the regulation. The regulation requires member States to cooperate closely in identifying such best interests, taking into account the potential for family reunification, the well-being and social development of children and young persons, considerations relating to their safety and protection — in particular the risk of human trafficking — and the views of the children themselves, taking due account of their age and maturity.

265. Spain applies the stipulations set out in Protocol No. 24 to the Treaty on European Union and the Treaty on the Functioning of the European Union, on asylum for nationals of member States of the Union, which limits the acceptance of applications for asylum from nationals of member States to specific and assessed cases, with due regard for the principle of mutual trust that underpins the notions of freedom, security and justice of the Union.

266. In compliance with Act No. 26/2015, foreign children residing in Spain have the right to education, health care and basic social services and benefits on the same footing as Spanish children. The public authorities are responsible for monitoring particularly vulnerable groups, which include unaccompanied foreign children and children with international protection needs, among others.

267. According to the latest figures provided by the Ministry of Internal Affairs, as at December 2015, a total of 3,341 unaccompanied foreign children, distributed throughout the country, were being cared for by the protection services of the autonomous communities. These children come from very diverse origins and, while many come from countries or geographical areas afflicted by hostilities or conflicts of varying magnitude, there is no way of telling whether their departure from their countries was attributable to their active participation in such conflicts or their suffering as victims of those conflicts.

268. The protection services of the autonomous communities are responsible for appraising the circumstances of their arrival in the country and information relating to their specific personal situation and also to their educational progress and social integration while their legal situation is being resolved.

269. Unaccompanied foreign children who have been placed in the protection system receive appropriate assistance, care and protection, according to current legislation, under a range of programmes run by NGOs and funded by the central government authorities for this purpose.

270. Over the period 2012–2015 a number of agreements have been signed between the Ministry of Employment and Social Security and the enclaves of Ceuta and Melilla on measures to improve the care services provided in centres for unaccompanied foreign children, in particular the provision of immediate attention and care in the form of accommodation and care services appropriate to their specific characteristics and needs: information, guidance, psychosocial support, education and placement in the workforce. Funding provided by the Ministry of Employment and Social Security for the two autonomous cities rose from €2,311,180 in 2014 to €2,850,990 in 2015.

271. Through the revision of Royal Decree no. 557/2011 of 20 April 2011, approving the regulations under Organization Act No. 4/2000 on the rights and freedoms of foreigners in Spain and their social integration, provisions are being developed to establish when it is appropriate to carry out tests for the determination of age and the persons authorized to conduct such tests, the scope of the procedure for the repatriation of unaccompanied foreign minors and measures to be taken prior to their repatriation to avoid irregularities in the return procedures, by providing necessary guarantees of repatriation, including the right of returnees to have their say in the hearing process.

272. The same regulations on aliens make provision for a registry of unaccompanied foreign minors, as stipulated by Organization Act No. 4/2000, for the identification of undocumented foreign minors. The registry is to be used to gather details of minors which might be recorded in any national or foreign public institution responsible for their protection. These details may not be used for a purpose other than that provided for under the regulations.

273. In cases where it is not possible to reunite unaccompanied foreign minors with their original families, they are categorized as in distress and their guardianship is assumed by the child protection authority of the relevant autonomous community. Such minors are transferred forthwith to reception centres where they are taken into temporary care while the child welfare services determine the most appropriate residential care for them.

274. The issue of determination of the age of unaccompanied foreign minors has been addressed in the new child protection legislation, which stipulates that, when the age of a person cannot be determined to be over the age of majority, that person shall be considered a minor for the purposes of the law. The public prosecutor, who is responsible for protecting the rights of children and young persons, must make a judgment based on considerations of proportionality which properly weighs the reasons as to why the passport or equivalent identity document that was presented was deemed to be unreliable. Medical testing to determine the age of a presumed minor shall be carried out as swiftly as possible, shall require the prior informed consent of the person concerned and shall be conducted with respect for the person's dignity and without posing a risk to his or her health. Such testing may not be performed indiscriminately, in particular if it is of an invasive nature.

275. Under the second national strategic plan, a standard protocol is to be developed for determining age and ensuring that age-determination procedures are based on safe and scientific methods, take the children's feelings into account and avoid all risks of violating their physical integrity. In 2014, a framework protocol was issued on specific measures relating to unaccompanied foreign minors. Preparation of this protocol was provided for in the regulations under Organization Act No. 4/2000, on the rights and freedoms of foreigners in Spain and their social integration and was underpinned by article 3 (1) of the Convention on the Rights of the Child and the Committee's general comments Nos. 6 and 14.

276. This framework protocol must also be developed by the autonomous communities, in accordance with their respective statutory rules, in the form of locally applicable protocols, placing obligations on the relevant administrations and institutions of the respective autonomous community.

277. Organization Act No. 8/2015 has played a decisive role in ensuring that, once the identity of each unaccompanied foreign minor has been established, their circumstances are analysed with due consideration of the best rights of the child and their right to be heard. From the moment that they are found to be present in the territory of Spain, unaccompanied foreign minors are provided with mandatory information about their rights under Spanish and international law, including the right to apply for asylum.

278. The aforementioned Regulation (EU) No. 604/2013 of the European Parliament and Council includes safeguards for unaccompanied foreign minors seeking asylum. In this, the best rights of the child shall be a paramount consideration. Member States are required to ensure that their representatives assist the unaccompanied minors in all procedures.

279. Training programmes on international protection are being prepared, to tackle issues relating to the processing of applications by children and vulnerable persons with special needs. In addition, the training syllabuses of the State security forces include the topic of international protection in their basic and further training programmes.

280. With regard to coordination with the Governments of the countries of origin, in particular that of Morocco, with a view to ensuring that repatriated children are returned to family members willing to care for them or to an appropriate social service agency, on 2 October 2012 an agreement entered into force between the Kingdom of Spain and the Kingdom of Morocco on cooperation in preventing the illegal emigration of unaccompanied foreign minors and on their protection and joint arrangements for their return.

281. With regard to the accommodation conditions and situations of neglect arising in emergency centres in the Canary Islands, in particular in La Esperanza and the island of Tenerife, attention is drawn to the closure of the emergency facilities in question and the gradual relocation of the unaccompanied foreign minors to child protection centres run by the Island Councils. Over the period 2010–2013, work continued under the programme of collaboration between the central government authorities and the government of the Canary Islands on the relocation to the autonomous communities of a number of children and young persons who had found their way to the islands. Annual budget allocations have been made over the period 2010–2015 to a total of €29,798,010, to fund the relocation and upkeep of unaccompanied foreign minors who are being sent to other regions.

282. Since November 2012, unaccompanied foreign minors in Ceuta have been cared for in a new centre, constructed at a cost of €4,830,525.33, financed from the State Employment and Local Sustainability Fund.

Children in situations of exploitation, including measures for their physical and psychological recovery and social reintegration

283. In its 2015 report, the Senate's special commission on child labour and exploitation recognized that, without entirely dismissing marginal cases that might arise in times of economic crisis, the practice of employing and exploiting the labour of children and young persons in Spain was of no more than residual importance and that there were efficient mechanisms to combat it successfully.

284. It is not always possible, however, to ensure that consumer products from third countries are untainted by practices that breach human rights and, in particular, that involve the exploitation of child labour. For that reason, the work performed by the aforementioned commission, in line with the Committee's general comment No. 16, is designed to make Spanish people more aware of origin of the products which they consume and how it can be identified and traced.

285. Among its conclusions, the report highlights the need for greater transparency in business supply chains, in application of the principle of due diligence, following the OECD Guidelines for Multinational Enterprises of May 2011, which Spain, as an OECD member country, has adopted. Pursuant to the Guidelines, companies are obliged to identify, prevent and mitigate the impact of their operations on the rights of children and young persons.

286. These conclusions also make reference to the policies of entrepreneurial corporate social responsibility, stressing the importance of external audit systems to the companies themselves.

287. Where actions of an international nature are concerned, in addition to domestic legislation, the conclusions refer to the inclusion in bilateral trade agreements which the European Union concludes with third States of provisions on respect for human rights, including the prohibition of child labour and forced labour, and also to the need to ratify

the Protocol of 2014 to the Forced Labour Convention of the International Labour Organization.

288. As for the public authorities, as major consumers, the special commission concludes that their conduct in this regard should be exemplary.

289. Where sexual exploitation and abuse, sale, trafficking, abduction and other forms of exploitation are concerned, further information may be found in chapter V and, on sexual abuse, in chapter X.

Children and young persons in conflict with the law, child victims and witnesses of offences and juvenile justice

290. Under Act No. 42/2015 of 5 October 2015, amending Act No. 1/2000 of 7 January 2000 on civil proceedings, every child or young person that is the victim of abuse or ill-treatment shall be afforded free legal assistance. This assistance shall be provided immediately, regardless of the victim's economic situation, and shall include not only defence by a lawyer, but also, when so determined by the judge, a free expert evaluation carried out by private practitioners with specialized training. Free legal assistance is also provided to all juvenile offenders, unless in accordance with their age they are already in remunerated employment, in which case they shall be subject to the general arrangements for free legal defence for those who cannot meet the costs of legal proceedings.

291. Figures provided in the basic statistical bulletin of the Ministry of Health, Social Services and Equality on measures imposed on young offenders indicate that, during 2013, a total of 23,902 such measures were logged, in accordance with the provisions of Organization Act No. 5/2000, of 12 January 2000, governing the criminal liability of minors. This reflects a gradual downward trend in cases compared to previous years (35,865 measures logged in 2010, 27,345 in 2011 and 24,892 in 2012).¹⁶

292. The most widely applied measures have declined significantly: the total number of custodial placements logged in 2010 was 4,365, compared to 3,964 in 2013; orders to perform social and educational tasks were reduced by almost half (from 4,138 logged in 2010 to 2,389 in 2013); while community service orders rose to 6,194 in 2010, from 4,243 in 2013; and the number of probation orders, of which more were logged than any other measure, dropped from 15,538 in 2010 to 10,139 in 2013.

293. These figures demonstrate that Spain is reducing the imposition of severe sentences on children and young persons. Organization Act No 5/2000 has undergone only one amendment, relating to the jurisdiction of the courts.

294. The revision of article 509 of the Criminal Procedure Act, by Organization Act No. 13/2015 of 5 October 2015, amending the Criminal Procedure Act with a view to strengthening procedural safeguards and regulating technological investigative methods, prohibits incommunicado detention for persons under the age of 16.

295. The second national strategic plan sets out prevention and rehabilitation measures to deal with situations of social conflict, stepping up such response actions as support programmes for the families of juvenile offenders, for families of the victims of offences committed by juvenile offenders and for families of the victims of child-to-parent abuse perpetrated by such offenders. In addition, it includes measures to gain a better understanding of children in social conflict through studies and analysis of the factors

¹⁶ See annexed statistical information.

influencing criminal behaviour, encouraging the participation of the individuals and institutions involved in the intervention processes.

296. With regard to the training of professionals working with children in situations of social conflict, continuing and specialized training activities have been carried out for judges and prosecutors, in addition to comparable courses for the State security forces and agencies, the police forces of the autonomous communities and the local police. The Ministry of Health, Social Services and Equality conducts annual face-to-face and online courses on work with juvenile offenders, intended for professionals in the autonomous communities and in NGOs.

297. The principal objective of the specialized care services for juvenile offenders in the autonomous communities is to ensure the physical and psychological recovery and social reintegration of children and young persons in conflict with the law. Noteworthy among these is the agency for the reformation and reintegration of minors of the Community of Madrid. Supplementing the judicial measures centres, which have places for 254 inmates under open, semi-open or closed regimes, this agency offers a range of specialized care programmes to ensure a personal approach to the provision of care to these children and young persons. These programmes include the following: a family abuse intervention programme; the “Enlace” (“link”) bottom-up programme on drug use; an educational and therapeutic treatment programme for juvenile sex offenders; a mental health programme; the PARES responsible parenthood programme; and the VIOPAR programme on violence between spouses.

298. The second national strategic plan makes provision for the conduct of art and creative leisure programmes in centres for juvenile offenders, as a vehicle for education, awareness-raising and training in values for their rehabilitation and integration. As an example, the regional government of Castile and León has signed an agreement with the Real Madrid Foundation for the development of sporting activities in several of its centres and, in others, is carrying out training programmes in recreational activities, such as circus schools.

299. The Ministry of Health, Social Services and Equality is subsidizing residential programmes for children and young persons in situations of social conflict and programmes for the implementation of open-regime measures for young offenders. The overall cost of these two sets of programmes over the period 2013–2015 was €2,220,177 and €1,468,887 respectively.

X. Optional Protocol on the sale of children, child prostitution and child pornography

300. Under the revision of the Criminal Code instituted by Organization Act No. 5/2010, of 22 June 2010, provisions were introduced on trafficking in human beings, which was categorized as a separate offence. The revised Code criminalizes all forms of trafficking in human beings, whether national or transnational, connected with organized crime or not, expressly stating that the penalties for this offence would be imposed independently of those imposed for offences that had actually been committed and would be more severe in cases where the victim was a minor.

301. Steps are being taken to improve the regulations covering sexual abuse and sexual assaults on minors under the age of 13, with the inclusion of a specific chapter on offences against sexual freedom and integrity.

302. In the latest revision of the Criminal Code (by Organization Act No. 1/2015, of 30 March 2015), work was completed on transposing into the Code European standards designed to combat trafficking, sexual exploitation and child pornography, while a number of new offences were included and the penalties against others were stiffened, thereby improving protection for children and young persons, in particular against child prostitution. Among other revisions, sexual relations between minors of the same age were decriminalized and the age of sexual consent raised to 16. Attention is also drawn to the following revisions:

- Regulations relating to the inclusion of profiles of convicted offenders in the DNA database, in line with the requirements of the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse (Lanzarote Convention) of 25 October 2007;
- Amendments to offences against sexual freedom, with a view to incorporating the provisions of Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating sexual abuse and sexual exploitation of children and child pornography;
- Special attention to child pornography: its definition; punishment of its production and dissemination by any means; and other provisions;
- Protection of children and young persons against abuse via the Internet or other means of telecommunication;
- Criminalization of forced marriage;
- Amendment of article 187, with the aim of more effectively prosecuting those who profit from the prostitution of others.

303. Act No. 26/2015 stipulates that all persons are obliged to bring to the attention of the public prosecutor facts that could constitute the commission of any one of these offences and establishes as a requirement for access to and engagement in any activity involving regular contact with minors that the persons concerned shall not have received an enforceable sentence for an offence against sexual freedom and integrity, human trafficking or the exploitation of minors. This includes volunteer staff, as stipulated in the new Act No. 45/2015, of 14 October 2015, on voluntary service.

304. Accordingly, a central register of sexual offenders has been set up, as reported in chapter V.

305. In the revised law, it is stipulated that the public authorities shall keep an eye on vulnerable groups, including victims of sexual abuse, sexual exploitation, child pornography, trafficking or smuggling of human beings, ensuring that their rights under law are duly upheld. When the public authorities responsible for the protection of minors are assessing hardship cases, attention is also given to risks to the life, health and physical integrity of children and young persons, including where they are identified as victims of trafficking and where there is a conflict of interest with their parents, guardians or carers.

306. Act No. 4/2015 of 27 April 2015, on the status of victims of crime, sets out a comprehensive list of the procedural and out-of-court rights of victims, without prejudice to any reference to the special regulations applicable to victims with special needs. Any action or decision taken during criminal proceedings in respect of a child victim of an offence is based on the best interests of the child.

307. To avoid or limit the possibility of an investigation or trial turning into a new source of distress for children and young persons who are victims of offences, audiovisual recordings are made of statements delivered in the course of the investigation and these may be played back during the proceedings in cases and under conditions determined by

the Criminal Procedure Act. Such statements may also be taken down by experts. Statements by underage witnesses and persons with limited legal capacity may be made in a manner which avoids any visual encounter between them and the accused, using any technical means that will make it possible for this evidence to be submitted.

308. In order to avoid their repeated victimization, it is prohibited to divulge or publish information on the identity of underage victims or any details that might directly or indirectly facilitate their identification or personal circumstances which have already been assessed to determine their protection needs, or to obtain, disseminate or publish images of the victims or of members of their families.

309. There is growing awareness by the public authorities of the sexual exploitation of children; social initiatives in this area have increased, with strategic plans at the national and autonomous community level and also agreements on coordination between different administrations.

310. Where trafficking is concerned, the comprehensive plan to combat trafficking in human beings for the purpose of sexual exploitation, adopted in 2009 by the Ministry of Health, Social Service and Equality, was extended to 2012, with the inclusion of measures to promote a campaign against trafficking-related offences and of specific measures to attend to the needs of children and young persons affected by or the victims of these offences.

311. The third plan of action to counter the sexual exploitation of children and teenagers for the period 2010–2013 was developed with the objective of promoting and protecting the rights of children and young persons who are victims or potential victims of sexual exploitation and also of preventing and detecting such exploitation and taking appropriate action against it.

312. As observed in the final evaluation of the plan of action, the annual figures provided by the Ministry of Internal Affairs on offences against sexual integrity relating to sexual violence against children and young persons showed a decline each year from 2010 to 2012, with an upturn in 2013. The evaluation notes that the number of girl victims is significantly higher than that of boys and that, of all the offences, sexual abuse is the most common.

313. Where the trafficking of children and young persons for purposes of sexual exploitation is concerned, figures provided by the Ministry of the Interior show that 4 victims were reported in 2009, 13 in 2010, 7 in 2011, 6 in 2012 and 12 in 2013, the majority of whom were girls aged between 14 and 17.

314. The evaluation demonstrates the improvement in the procedures for the detection and reporting of child sexual exploitation and the development of activities to raise awareness, disseminate information and strengthen the capacity of children and young persons and highlights in particular those activities undertaken by NGOs and mostly subsidized by the Ministry of Health, Social Services and Equality. Attention should also be drawn to the work of the Spanish network set up to oppose commercial sexual exploitation, to prevent child sexual abuse and to combat trafficking in persons.

315. During the implementation of the third plan of action to counter the sexual exploitation of children and young persons, a range of activities were carried out connected with the development of protocols and with coordination and collaboration between the public authorities and NGOs. Attention is also drawn to actions for the protection of victims of child sexual exploitation, prominent among which were programmes run by NGOs with government subsidies. These complemented the comprehensive treatment services set in place by autonomous communities for children and young persons who were victims of exploitation (Madrid, Murcia, Castile and León, Catalonia). These services also provided

treatment to young persons in the category of juvenile sex offenders. In addition, protocols against sexual abuse and trafficking for the purposes of sexual exploitation were adopted by a number of the autonomous communities.

316. The 2015–2018 comprehensive plan to counter trafficking in women and girls for the purposes of sexual exploitation is the first such plan to include a specific reference to girls, those worst affected by trafficking offences.

317. Where coordination between different administrations on the issue of trafficking is concerned, the 2011 framework protocol for the protection of victims of trafficking identifies specific areas of work with underage victims of trafficking, including assistance, support and protection measures designed to provide sustainable approaches to their recovery and education and to avoid the dangers of secondary victimization throughout the process; and the immediate application in appropriate conditions of a protocol on standardized interview procedures.

318. Under the aforementioned framework protocol on certain acts relating to unaccompanied foreign minors it is obligatory to notify such minors of the rights which they enjoy in Spain as victims of trafficking, in a language that they can understand, and to record such notification in writing.

319. As an instrument to complement the above protocols and as recommended by the Ombudsman in his 2012 report “La trata de seres humanos en España: víctimas invisibles” (“Human trafficking in Spain: invisible victims”), work is in progress under the auspices of the Childhood Observatory on a framework protocol to promote inter-agency coordination and to improve care for underage victims.

320. Activities have been carried out related to training, awareness-raising and provision of direct care to children and young persons who have been victims of sexual exploitation. Since 2012, the Ministry of Health, Social Service and Equality, in collaboration with the protection services of the autonomous communities, has been conducting online courses for social service professionals on the topic of trafficking in children and young persons for the purposes of sexual exploitation and the provision of comprehensive care to victims.

321. Training courses have also been organized for the Civil Guard, the national police, the Public Prosecutor’s Office, the judicial police, military and civilian personnel of the Ministry of Defence, staff working in consulates and embassies and staff of the Ministry of Health, Social Services and Equality who specialize in children’s issues. Attention is also drawn to the work performed in this area by such NGOs as the Spanish Red Cross, the Federation of Associations for the Prevention of Child Abuse (FAPMI) and the Vicki Bernadet Foundation.

322. Mention may also be made of awareness-raising campaigns such as that run by the Council of Europe for the prevention of sexual violence against children, the “Uno de Cada Cinco” (“One in every five”) campaign, mounted in Spain by FAPMI with funding from the Ministry of Health, Social Services and Equality, or the “Don’t look away” campaign, launched in Spain in December 2013 to minimize the risk of sexual exploitation of children in world sports events, in particular the 2014 football World Cup in Brazil.

323. Under the 2013 operational plan of the national police against trafficking in human beings for the purpose of sexual exploitation, a helpline has been set in place (900 10 50 90) and an e-mail address (trata@policia.es), to enable victims of trafficking or any member of the public to submit reports. In addition, an awareness-raising campaign has been carried out, with the use of video material, posters, leaflets and social media, notably Twitter (with the hashtag #contralatrata).

324. There are also other modalities, managed by specialists in this field, through which citizens, and in particular victims, can notify the authorities of suspected cases of trafficking or sexual exploitation, either online or by telephone. Prominent among these is the innovative project on the Advisory System against Sexual Exploitation of Children (ASASEC), co-financed by the European Union and coordinated by the Spanish National Cybersecurity Institute (INCIBE), aimed at improving the technical resources used to combat child pornography at the international level. The principal user of ASASEC has been the technological investigation brigade of the central police directorate in Spain, in addition to other security forces and agencies at the national and international levels.

325. The autonomous communities have developed measures aimed at the protection and care of children and young persons who have been victims of sexual exploitation, earmarking resources to promote their social reintegration and conducting physical and psychosocial recovery measures as part of a holistic approach to care. These include the programme for the treatment of abused children in Castile and León; an advisory service for the courts designed to prevent the repeated victimization of minors, as part of the Proyecto Luz (Light Project) in Murcia; and the programme for child victims of sexual abuse developed in Andalusia.

326. Non-governmental organizations receive grants for programmes on the sexual abuse and exploitation of children. The provision of care for minors is one of the priorities in determining allocations from individual income tax revenues for these grants, which, in 2015, totalled €585,174.¹⁷

XI. Optional Protocol on the involvement of children in armed conflict

327. In the course of revising the Criminal Code in 2010, the act of conscripting or enlisting children under the age of 18 years or using them to participate directly in hostilities was introduced as an offence. The preamble to the Code also highlights the need for special protection of children in armed conflict.

328. Organization Act No. 14/2015, of 14 October 2015, on the Military Criminal Code, stipulates that offences committed by a member of the military which are defined in the Criminal Code as offences against protected persons and property in the event of armed conflict are deemed to be military offences. Accordingly, the Criminal Code provides that, in the event of an armed conflict, persons who breach the requirements of special protection for women and children as stipulated in the international treaties to which Spain is a party and, in particular, recruit or enlist minors under the age of 18 or use them to participate directly in hostilities shall be subject to punishment by imprisonment.

329. Spain has extraterritorial jurisdiction over those offences against persons and property to be protected in the event of armed conflict which are defined in the chapter of the Criminal Code on offences against the international community.

330. The Judiciary Organization Act stipulates that the Spanish courts shall have jurisdiction to try acts committed by Spanish or foreign nationals outside Spanish territory that meet the criteria under Spanish law for definition as one of the following offences: genocide or crimes against humanity or against protected persons and property in the event of armed conflict, in circumstances where proceedings are being conducted against a

¹⁷ €390.042 in 2011; €428,702 in 2011; €298,314 in 2012; €442.048 in 2013; and €523.740 in 2014.

Spanish citizen or against a foreign citizen habitually resident in Spain or against a foreign national located in Spain whose extradition has been denied by the Spanish authorities.

331. Act No. 12/2009, of 30 October 2009, regulating the right to asylum and subsidiary protection, provides that applicants for the international protection accorded to children and young persons that are victims of armed conflict, among other categories, shall receive appropriate health care and psychological assistance and also the professional assistance that they need.

332. Where training in the principles of the Convention on the Rights of the Child is concerned, the Military School of Legal Studies, under the Ministry of Defence, runs a range of courses on international humanitarian law, delivered by specialists in the field, which in the 2008/09 academic year included a specific presentation on the rights of children in armed conflict.

333. These courses are aimed at military cadets training to enter the Military Judicial Corps; those already serving in the Military Judicial Corps; and, in general, other members of the armed forces and, more specifically, lecturers in military colleges.
