



**International covenant  
on civil and  
political rights**

Distr.  
GENERAL

CCPR/C/ESP/Q/5  
7 August 2008

ENGLISH  
Original: FRENCH

HUMAN RIGHTS COMMITTEE  
Ninety-third session  
Geneva, 7-25 July 2008

**LIST OF ISSUES TO BE TAKEN UP IN CONNECTION WITH  
THE CONSIDERATION OF THE FIFTH PERIODIC REPORT  
OF SPAIN (CCPR/C/ESP/5)**

**Constitutional and legal framework within which  
the Covenant is implemented (art. 2)**

1. What mechanisms and procedures has the State party established in order to guarantee suitable follow-up to the Committee's concluding observations and views? What steps have been taken by the State party to implement the following communications: 493/1992, Griffin (A/50/40); 526/1993, Hill (A/52/40); 701/1996, Gómez Vásquez (A/55/40); 864/1999, Ruiz Agudo (A/58/40); 986/2001, Semey (A/58/40); 1006/2001, Muñoz (A/59/40); 1007/2001, Sineiro Fernando (A/58/40); 1073/2002, Terón Jesús (A/60/40); 1095/2002, Gomariz (A/60/40); 1101/2002, Alba Cabriada (A/60/40); 1104/2002, Martínez Fernández (A/60/40); 1211/2003, Oliveró (A/61/40); 1325/2004, Conde (A/62/40); 1332/2004, Garcia and others (A/62/40); 1381/2005, Hachuel v. Spain; 1351 and 1352/2005, Hens & Corujo (A/63/40)?

**Measures to combat terrorism and respect for  
the safeguards set out in the Covenant**

2. In its previous concluding observations, the Committee recommended that the State party should rescind the legislative provisions under which persons accused of acts of terrorism or suspected of collaborating with such persons may not choose their lawyer, and urged the State party to abandon the use of incommunicado detention (CCPR/C/79/Add.61, para. 18). It is clear from the information provided in paragraphs 94 and 95 of the report (CCPR/C/ESP/5) that the State party has not followed up on the Committee's recommendations. In the light of articles 2, 9 and 14 of the Covenant, please give reasons explaining why the State party has not changed its position.

3. Please comment on the importance, scope and limits of articles 572 to 580 of the Criminal Code, under which the notion of terrorism risks being broadened to include serious acts of violence against the general public. Please specify whether they are compatible with the provisions of the Covenant, in particular with articles 2 and 15. Please indicate whether the State party plans to amend articles 572 to 580 of the Criminal Code in order to make them fully compatible with the Covenant.

4. What measures have been adopted in Spain to protect personal data, bearing in mind the abuses that can occur in the fight against terrorism?

#### **Non-discrimination and equality between the sexes (arts. 3 and 26)**

5. Please indicate what steps the State party has taken to provide sufficient resources for the courts that have been established to try cases of gender-based violence. Please also provide detailed information on the crisis centres for victims.

#### **Right to life and prohibition of torture (arts. 6 and 7)**

6. Please provide up-to-date information on the stage reached in the investigations into the cause of death of 13 migrants at the border in Ceuta and Melilla in September and October 2005.

7. Please indicate: (a) whether the State party has drawn up a comprehensive plan in order to end, once and for all, the practice of torture and other forms of cruel, inhuman or degrading treatment; (b) whether effective mechanisms exist in Spain for the prevention of torture; (c) the reasons why the State party has not yet established a national mechanism for the prevention of torture; and (d) what reparation measures have been granted to victims of torture, including rehabilitation and compensation.

8. Please indicate whether investigations into complaints of ill-treatment and torture are carried out in accordance with the Principles on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by the General Assembly in its resolution 55/89; and, in particular, what transparent and equitable procedures have been established by the State party to make it possible to conduct investigations into complaints of ill-treatment and torture involving the security forces and to permit those responsible for such inquiries to investigate complaints of ill-treatment and torture in complete independence.

9. Please provide detailed information on the human rights training given, inter alia, to law enforcement officials and prison personnel.

#### **Right not to be subjected to arbitrary arrest or detention (art. 9)**

10. In its previous concluding observations, the Committee invited the State party to shorten the duration of pretrial detention and to stop using duration of the applicable penalty as a criterion for determining the maximum duration of pretrial detention. Bearing in mind the information contained in paragraphs 88 and 89 of the report, please indicate whether the State party has considered following up on the Committee's recommendation, in conformity with article 9, paragraph 3, of the Covenant. Does the State party intend to shorten the duration of

pretrial detention and permit detainees the assistance of a lawyer and access to a doctor of their choice? What remedies exist to permit compliance with article 9, paragraph 4, of the Covenant?

**Right to humane treatment of persons deprived of their liberty (art. 10)**

11. Please provide detailed, up-to-date information on instances of solitary confinement lasting over 14 days that were approved by the Prisons Inspection Judges (paragraph 59 (d) of the report). Please provide information on the case of Yagoub Guemereg, currently in solitary confinement in Zuera prison, Zaragoza.

12. Please provide up-to-date information on progress in the construction and operationalization of 18,000 new cells for various purposes (paragraph 66 of the report). Please provide more information on the gradual decline in the number of persons held in closed prisons as a result of the adoption of new classification criteria (paragraph 71 of the report).

**Rights of aliens (art. 13)**

13. According to information received by the Committee, the decision-making process regarding the detention and expulsion of immigrants - particularly those arriving in the Canary Islands - is generally arbitrary and does not follow the procedure established by law on deportations. Moreover, judicial supervision of asylum applications is exercised in a mechanical manner, consisting of a mere formality, which thus removes all safeguards of the right of asylum. Please comment on this information in the light of article 13 of the Covenant.

14. Please provide information on the measures taken by the State party to inform immigrants of the rights and guarantees that they are granted by law, particularly in the context of interception, return, expulsion and detention. Please also indicate whether in practice immigrants who are detained or held in custody are given legal assistance.

15. Please comment on information describing abuses committed in the course of the deportation of Moroccans, inter alia, from Ceuta and Melilla.

16. Please also indicate whether border control and law enforcement officials in service in Ceuta and Melilla are given training in human rights, including the right to be free from discrimination and the right to seek asylum.

**Right to a fair trial (art. 14)**

17. Please provide information on the stage of consideration by Parliament, and the content, of the draft organizational act which, among other things, would reform the cassation (review) procedure and make a second hearing in criminal cases common practice. If this draft act is adopted, what additional steps will need to be taken for a second hearing in criminal cases to become common practice (paragraph 114 of the report)?

**Right to freedom of opinion, expression and information (art. 19)**

18. Please comment on information describing numerous violations of the freedom of expression, on grounds of fear of terrorism. To what extent can the State party justify violations of the freedom of opinion and expression in the Basque Country?

### **Protection of children (art. 24)**

19. Information has been received by the Committee to the effect that unaccompanied minors, especially those of Moroccan nationality, arriving at Arinaga centre on Gran Canaria and La Esperanza centre on Tenerife, have in some cases been removed from Spain without previous verification of their return to family or appropriate agencies in their country of origin, and have been ill-treated by older children, by adults, by the staff of reception centres or by law enforcement officials during their removal. There have also been reports of children being held at police or civil guard stations for extended periods, without access to a lawyer and without being brought before a judge. Please comment on this information in the light of article 24 of the Covenant, indicating whether these allegations have been duly investigated, as well as the results of the investigations and the steps being taken to correct these situations.

### **Principle of non-discrimination (art. 26)**

20. Please provide detailed, up-to-date information on the educational measures and information campaigns that have been implemented by the State party in order to prevent racist and xenophobic trends from developing, as recommended by the Committee in its previous concluding observations. Please also indicate what impact the activities of the Spanish Observatory for Racism and Xenophobia have had on the elimination of such trends (paragraph 130 of the report). Please provide statistics relating to the Observatory's activities and the follow-up action taken in this regard.

21. According to information received by the Committee, the Roma (*Gitano*) population, North African immigrants and Latin American immigrants are frequently the victims of discriminatory attitudes, and of ill-treatment and violence on the part of the police. What steps have been taken, or are planned, in this regard?

22. Please provide information on the impact of the events that occurred in Madrid in March 2004, particularly with regard to Muslims living in Spain.

### **Rights of minorities (art. 27)**

23. Please indicate whether the State party has adopted a sufficiently appropriate legal framework and suitable policies for the promotion of the culture, traditions and languages of minorities in its territory.

### **Dissemination of the Covenant**

24. Please indicate the steps that have been taken to disseminate information on the submission of the fifth periodic report, its consideration by the Committee, and the Committee's concluding observations on the fourth periodic report.

-----