



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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Committee against Torture

**Information received from Spain on follow-up to
the concluding observations on its seventh periodic
report***

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* The present document is being issued without formal editing.



1. In response to the request for additional information made by the Committee against Torture in its concluding observations on the seventh periodic report of Spain (CAT/C/ESP/CO/7), regarding the issues of particular concern identified by the Committee in paragraphs 16 (c), 18, 28 and 32 (b), the Government of Spain submits the following replies.

Additional information relating to the concluding observations (CAT/C/ESP/CO/7)

Principal subjects of concern and recommendations

Information relating to paragraph 16 (c)

Excessive use of force by law enforcement officials

2. Within the State security forces, there are specialized units tasked with monitoring the orderly progress of demonstrations, which receive specific training to perform this role. Article 5 (2) of Organic Act No. 2/1986 on the Security Forces sets out the causes, limits and principles that should guide the use of force, namely the principles of consistency, appropriateness and proportionality, which must govern all actions taken by the State security forces. This provision is in accordance with the European Parliament resolution of 14 February 2019 on the right to peaceful protest and the proportionate use of force (2019/2569(RSP)).

3. Another legal safeguard is contained in Organic Act No. 4/2015 of 30 March on the Protection of Public Safety. Article 23 provides that the authorities may, through the State security forces, disperse gatherings in public transit areas and demonstrations in accordance with article 5 of Organic Act No. 9/1983 of 15 July on the Right of Assembly.

4. The use of coercive measures is proportionate to the level of violence exhibited by demonstrators, with the aim at all times of preventing an escalation in their response, and protecting the rights and freedoms of other members of the public. In fact, the Organic Act on the Protection of Public Safety stipulates not only that intervention measures to maintain or restore order at assemblies and demonstrations must be gradual and proportionate to the circumstances, but also that the dispersal of such gatherings must be the last resort.

5. Police operating procedures are continually updated on the basis of accumulated experience, the incorporation of best practices, knowledge-sharing with other police forces and the pursuit of maximum operational efficiency with strict respect for human rights, in accordance with the principles set forth in international instruments such as the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (1990) and the Code of Conduct for Law Enforcement Officials (1979), which require legality, necessity, proportionality and accountability in all police actions.

6. However, the operating procedures and protocols for the management of demonstrations are not publicly available, in accordance with article 14 (1) (d) of Act No. 19/2013 of 9 December on Transparency, Access to Public Information and Good Governance, which states that the right of access may be restricted when access to information would jeopardize public safety.

7. The reasons for this restriction are based on the fact that operational protocols and circulars are working procedures involving the human and material resources deployed by the State security forces to carry out their mission of protecting the free exercise of rights and freedoms and ensuring public safety. These procedures therefore fall within the realm of sensitive information necessary for the effective achievement of these objectives.

Information relating to paragraph 18 Melilla border fence tragedy

8. The events that unfolded on 24 June 2022 consisted in a massive, violent and to some extent coordinated assault, such that law enforcement had limited operations for dealing with the violent crowd. The migrants used dangerous weapons such as axes, clubs and angle grinders.

9. As a result of this attack, more than 50 Civil Guard officers of the 120 involved sustained injuries of varying severity. The response of law enforcement was nonetheless guided by the principles of consistency, appropriateness and proportionality in the use of the means at its disposal.

10. Article 3 of the Code of Conduct for Law Enforcement Officials provides that law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty. The use of force may be authorized as is reasonably necessary under the circumstances for the prevention of crime.

11. Spain balances law enforcement efforts to protect human rights with its legitimate obligation to preserve its national sovereignty, in accordance with the principle of respect for sovereign equality and territorial integrity as proclaimed in General Assembly resolution 2625. Under the aforementioned circumstances, the State security forces used proportionate and appropriate measures within the parameters of the law and with respect for human rights.

12. In addition, Spain is introducing two disciplinary systems – one administrative, the other criminal – to address the need for the in-depth scrutiny of police intervention and the corresponding disciplinary or criminal responsibility of police officers who engage in conduct that violates human rights.

13. Consequently, the Attorney General's Office and the Ombudsman's Office conducted independent investigations to determine what had occurred. Specifically, the Attorney General's Office opened a preliminary investigation following the incident, focusing on the actions of the Civil Guard and the Ministry of the Interior. It closed the case on 23 December 2022, concluding that there was no evidence of wrongdoing by the Spanish officers or the Ministry of the Interior. The Attorney General's Office stated that "it is clear that the Spanish courts lack jurisdiction to hear cases involving the actions taken by Moroccan law enforcement officers in their own country before, during and after the deadly stampede", and acknowledged that the Civil Guards had faced "a situation of extreme danger to their safety".

14. Subsequently, and following the recommendations of the Attorney General, the Directorate General of the Civil Guard ordered an internal investigation to determine the potential disciplinary responsibility of the responding officers. This investigation concluded without any disciplinary action being taken. The Ombudsman's investigation into the matter was closed in October 2022.

15. It should be noted that the country's system for the prevention of illegal border crossings by foreign nationals is consistent with the doctrine of the European Court of Human Rights, since it has been established that denial of entry is a coercive measure intended to immediately restore the legal order violated by the attempt by foreign nationals to cross a specific land border in an irregular manner. This does not preclude the coercive measure from being subject to judicial review, which is the case in Spain.

16. In the exercise of its powers and in connection with the events of 24 June 2022, the Directorate General for Equal Treatment and Ethnic Diversity of the Ministry of Equality convened the Legislation Working Group of the Council for the Elimination of Racial and Ethnic Discrimination on 29 July and 1 July. At those meetings, the Council agreed upon and adopted a recommendation¹ expressing regret over the deaths of dozens of people and the injuries sustained by many others, including migrants and members of the security forces.

¹ Published on the Council's website: https://igualdadynodiscriminacion.igualdad.gob.es/wp-content/uploads/2024/05/Recomendacion_Consejo_sucesos_acaecidos_cercania_valla_de_Melilla_07_2022-1.pdf.

The Council also pointed out that the use of force must always be guided by the principle of proportionality and respect for human rights.

Information relating to paragraph 28
Solitary confinement

17. The current Spanish legal framework governing the prison system provides for solitary confinement only as an exceptional precautionary measure in certain serious situations or as a punishment for serious disciplinary offences.

18. In the first case, article 45 of Organic Act No. 1/1979 of 26 September 1979, the General Prisons Act, limits the circumstances under which solitary confinement may be applied as a coercive measure, as well as its duration, and establishes certain safeguards, including its being subject to authorization by the prison administration, a medical report confirming there are no contraindications and the immediate notification of the prison inspection court.

19. In the second case, prison legislation provides for solitary confinement as a punishment only for the most serious offences, and, as established in article 42 (2) of the General Prisons Act, it may not exceed 14 days. The penalty must be enforced in a cell identical to the others and be subject to a prior medical report and daily medical supervision, so that the prison administration is informed of the individual's physical and mental health status and, if necessary, of the need to suspend enforcement, in accordance with article 254 of the Prison Regulations adopted by Royal Decree No. 190/1996.

20. As an exception, the prison disciplinary system allows for the accumulation of solitary confinement penalties in cases of multiple offences that may warrant this punishment. In this case, penalties must be enforced sequentially by order of severity, with the maximum duration of solitary confinement not exceeding 42 consecutive days; furthermore, article 76 (2) (d) of the General Prisons Act provides that the prison inspection court must approve solitary confinement penalties with a duration exceeding 14 days.

21. Nevertheless, in accordance with the recommendations of the national mechanism for the prevention of torture and other cruel, inhuman or degrading treatment or punishment regarding the negative effects that prolonged isolation can have on some individuals, the prison administration can, at the prisoner's request, interrupt the consecutive serving of penalties so that he or she can have meaningful outside contact. In other words, when the person deprived of liberty requests it, after 14 days of solitary confinement, enforcement is suspended for a period of one to three days with the prisoner returning to their ordinary living arrangements, after which solitary confinement resumes.

22. Accordingly, current regulations governing the use of solitary confinement in the Spanish prison system comply with the requirements set forth in the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).

23. With regard to minors, Organic Act No. 1/1996 of 15 January 1996 on the Legal Protection of Minors, partially amending the Civil Code and the Civil Procedure Act, was amended by the eighth final provision of Organic Act No. 8/2021 of 4 June on the Comprehensive Protection of Children and Adolescents against Violence. An article 21, relating to protection centres, was added; articles 27–30, relating to security measures, containment, isolation and personal and material searches in specific protection centres for minors with behavioural problems, were amended.

24. Regarding isolation, article 29 of the Organic Act on the Legal Protection of Minors provides the following:

25. The temporary isolation of a minor by confining them to a suitable space from which they cannot leave may be used only to prevent acts of violence, self-harm, injury to other minors residing at the facility, facility staff or third parties, or serious damage to the premises. It will be applied on a case-by-case basis when necessary and under no circumstances as a disciplinary measure.

26. The period of isolation may not exceed three consecutive hours, without prejudice to the minor's right to rest. For the duration of the measure, the minor must be continuously

accompanied or monitored by an educator or other professional member of the facility's educational or technical team.

Information relating to paragraph 32 (b)

Non-refoulement

27. Spain abides by its national, European and international obligations regarding the principle of non-refoulement, guaranteeing effective access to international protection procedures in a manner that is compatible with and proportionate to the fulfilment of its obligations regarding border control and the maintenance of internal security and public order.

28. This was confirmed by the Grand Chamber of the European Court of Human Rights in its judgment of 13 February 2020, in which it recognized that Spain ensures availability and genuine access to legal means of seeking admission to its national territory, and that attempts by persons to enter Spanish territory in an unauthorized manner – by scaling border fences, taking advantage of their large numbers and using force – are not legitimate.

29. To continue to improve access to and the processing of applications for international protection, the State Secretariat for Security and the Office of the Undersecretary of the Interior adopted a new Instruction on the international protection procedure, which entered into force on 1 April 2025. The aim of the Instruction is to establish uniform criteria and guidelines in relation to access to the application procedure, and thus ensure legal certainty, promptness and transparency in the processing of applications. The Instruction focuses on strengthening certain areas, such as:

- Guarantees of access to the procedure
- Effective coordination of legal assistance and interpretation services
- Identification of special needs at the time of submission of the application, specifying the action to be taken in each case
- Content and format of the interview
- Interpretation and legal assistance as foreseen under article 18 (b) of Act No. 12/2009 of 30 October on the Right to Asylum and Subsidiary Protection
- Application of the principle of non-refoulement, in accordance with article 19 (1) of the Act on the Right to Asylum and Subsidiary Protection, which provides that, having lodged an application, a foreign national may not be subjected to return or expulsion until a decision is made on the application or the application is deemed inadmissible.

30. All applications for international protection are processed in accordance with the procedure set forth in the Act on the Right to Asylum and Subsidiary Protection, which establishes a comprehensive international protection framework that safeguards fundamental rights.

31. In 2024, a management decision was taken to increase processing capacity for international protection applications by automating the referral of reports to the Inter-Ministry Commission for Asylum and Refuge, while maintaining the individual examination of each case, resulting in reduced processing times.

32. Article 29 of the Act on the Right to Asylum and Subsidiary Protection provides that decisions taken may be subject to an optional request for review and to an appeal before the administrative courts. Access to the procedure is subject to safeguards, as a prior appointment is required to lodge an application for international protection.

33. Finally, it should be noted that the Act on the Legal Protection of Minors establishes that foreign minors present in Spain have the rights to education, healthcare and social services and benefits under the same conditions as Spanish minors.

34. Regarding the implementation of other recommendations included in the Committee's concluding observations, the Government of Spain reports the following:

Information relating to paragraph 34 (b)

35. On 19 November 2024, the Council of Ministers approved two bills aimed at protecting and guaranteeing the rights of minors in age determination procedures, in accordance with the recommendations of international organizations on this matter. These bills are:

- A bill² amending the Civil Procedure Act (No. 1/2000 of 7 January), to regulate the age determination procedure
- A draft organic act³ amending Organic Act No. 5/2000 of 12 January on the Criminal Responsibility of Minors, which is complementary to the aforementioned bill and entrusts age determination to the juvenile court when a person is detained on suspicion of involvement in a criminal offence and there is reasonable doubt as to whether he or she is a minor or an adult.

Information relating to paragraph 42

36. Spain is internationally recognized as a pioneer for its adoption of comprehensive laws and public policies to prevent and address gender-based violence against women, based on prevention, protection, prosecution and coordination.

37. Domestically, it has an extensive legislative framework, in which two comprehensive laws stand out: Organic Act No. 1/2004 of 28 December on Comprehensive Protection Measures against Gender-Based Violence, and Organic Act No. 10/2022 of 6 September on the Comprehensive Guarantee of Sexual Freedom. The latter holds that any act that infringes upon another person's sexual freedom without their consent constitutes sexual assault, and introduces a new definition of consent, which is understood to exist only when it has been freely manifested through acts which, given the circumstances of the case, clearly express the person's will. Organic Act No. 4/2023 of 27 April, amending Organic Act No. 10/1995 of 23 November, the Criminal Code – in respect of crimes against sexual freedom –, the Criminal Procedure Act and the Organic Act on the Criminal Liability of Minors, was subsequently adopted.

38. Since the adoption of the Organic Act on Comprehensive Protection Measures against Gender-Based Violence, access to the public justice system has been provided through the gender violence courts and the Office of the Special Prosecutor on Violence against Women. Gender violence courts are specialized courts with a gender perspective that have criminal jurisdiction (including the issuance of protection orders for victims) and civil jurisdiction (custody, visiting rights, child support, etc.) in relation to gender-based violence in the context of current and former intimate relationships.

39. The recent Organic Act No. 1/2025 of 2 January on Efficiency Measures in the Justice System, which transforms the judicial system, assigns jurisdiction to violence against women sections (which replace the gender violence courts) to hear cases of gender-based violence in the context of current or former intimate relationships, offences against sexual freedom, female genital mutilation, forced marriage, sexual harassment and trafficking for the purpose of sexual exploitation. At the same time, it expands the jurisdiction of the Office of the Special Prosecutor on Violence against Women over these acts of sexual violence.

40. The public justice system provides victims with redress for the harm they have suffered. The Organic Act on Comprehensive Protection Measures against Gender-Based Violence and the Organic Act on the Comprehensive Guarantee of Sexual Freedom recognize the right to reparation of victims of gender-based violence and sexual violence, which includes compensation for material and moral harm to be paid by the person civilly or

² https://www.congreso.es/es/proyectos-de-ley?p_p_id=iniciativas&p_p_lifecycle=0&p_p_state=normal&p_p_mode=view&_iniciativas_mode=mostrarDetalle&_iniciativas_legislatura=XV&_iniciativas_id=121/000040.

³ https://www.congreso.es/es/proyectos-de-ley?p_p_id=iniciativas&p_p_lifecycle=0&p_p_state=normal&p_p_mode=view&_iniciativas_mode=mostrarDetalle&_iniciativas_legislatura=XV&_iniciativas_id=121/000041.

criminally liable, full rehabilitation, guarantees of non-repetition, victim reparation funds and symbolic reparations.

41. In terms of training, the competitive examinations for entry to and advancement in the judicial and prosecutorial careers require the study of the principle of equality between women and men, including measures to combat gender-based violence, and its cross-cutting application in the judiciary.

42. The General Council of the Judiciary is drawing up an in-service training plan for the judiciary that includes multidisciplinary courses on the judicial protection of the principle of equality between women and men, sexual discrimination, multiple discrimination and violence against women and trafficking in all its forms and manifestations, as well as training in mainstreaming a gender perspective in the interpretation and application of the law, and it includes such training in other courses (Organic Act on the Judiciary, art. 433 bis).
