

**COMPLEMENTARY REPORT  
TO THE III AND IV REPORT ON  
THE IMPLEMENTATION OF THE CONVENTION  
ON THE RIGHTS OF THE CHILD IN SPAIN**



**plataforma  
de infancia**  
españa

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### Feminine and Masculine

In the Spanish version of this report, with the goal of adapting the language so as to represent both men and women, the decision has been made to use terms that are both masculine and feminine alternately, or the use of a term that although may be masculine or feminine represents all persons. However, in the English translation we understand that the language is generally gender free.

### What children think

As a result of consulting with children on the implementation of the rights of children, we have classified some findings:

#### “Speaking out loud”:



Presents quotations from children that were made during the consultation.

#### “How embarrassing”:



These are children's quotes that vindicate their views as were expressed in interviews.

#### “To jot down”:



Proposals introduced by children to ensure better enforcement of their rights.

#### “With gender glasses”:



These are phrases that reveal gender issues that were discovered in the consultation.

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**Madrid, Spain**

**March 2010**



**plataforma  
de infancia**  
españa

## APPRECIATION

The Plataforma de Infancia wishes to thank all the organizations and persons, who volunteered in one way or another and have contributed generously to the elaboration of this report.

To the Ombudspeople for adults and children, especially those who participated in the III Reunion for Ombudspeople and the Plataforma de Infancia<sup>1</sup> in March of 2009; very useful proposals were made on the main themes of this document.

To ACNUR Spain, for their contributions in the elaboration of the chapter referring to unaccompanied foreign minors (menores extranjeros no acompañados, MENAS).

A very special thanks to the NGO Group for the Convention on the Rights of the Child (CRC), for their contributions and work with civil society to ensure the application of the Convention throughout the world.

To all the member organizations for their role in the network and for their faith in a shared effort in favor of the rights of children which is a goal worth working together for.

Another particular thanks to the technical personnel of the member organizations, their contributions and efforts have enriched the content of this document.

To all the boys and girls for their opinions and proposals which have been included in this document, for their help in making effective their right to participate and for reminding us about what matters in our work.

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To the board of directors, for their contribution and confidence in the elaboration process of the Report and in the strengthening of the Plataforma de Infancia.

Lastly, all those of you in the technical office who have dedicated your time, efforts, and dedication to this common project.

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<sup>1</sup>The Plataforma de Organizaciones de Infancia can be translated to the Spanish Child Rights Coalition. Within the text being a proper name, it will not be translated.

## INDEX

INTRODUCTION.....	6
NATIONAL AND REGIONAL CONTEXT.....	8
MAIN RECOMMENDATIONS.....	10
SUBJECTS.....	14
I. General measures of implementation, definition of the child and general principles.....	14
II. Civil rights and freedoms.....	21
Children's participation	
Communication media and TIC	
III. Family environment and alternative care.....	31
Family environment and alternative care	
Unaccompanied foreign minors. Special reference to article 22	
Violence. Special reference to articles 34, 35 and 36	
IV. Basic health and welfare.....	50
Basic health and welfare	
Poverty and social exclusion	
V. Education, leisure and cultural activities.....	60
Education	
Right to play	
VI. Special protection measures.....	73
Juvenile justice	
GLOSSARY.....	77
BIBLIOGRAPHY.....	79
PLATAFORMA DE INFANCIA (Spanish Child Rights Coalition).....	84



## INTRODUCTION

The Plataforma de Infancia constitutes a space for inter-association and coordination whose mission is to protect, promote and defend the rights of children. Created in 1997, it uses the Convention on the Rights of the Child (CRC) as a reference as was approved by the United Nations in 1989.

The Plataforma de Infancia wishes for this Complementary Report to contribute to the next evaluation of the Committee on the Rights of the Child will make throughout 2010 concerning the application of the CRC in Spain.

Since the creation of the Plataforma de Infancia as a national coalition for the rights of children in Spain, the entity has followed closely the application of the CRC, and has created complementary reports for the Committee on the Rights of the Child, in addition to those reports done by the State.

Thus, keeping in mind the start of the CRC in Spain in 1991, the State has created four Reports so far: "I. Spain's Report on the application of CRC", sent in 1993; "II. Spain's Report on the application of CRC 1993-1997", introduced in 1999; and the last two "III. and IV. Spain's Report on the application of CRC", introduced in 2008.

In a parallel manner, Plataforma de Infancia has forwarded additions to those reports mentioned in the following way: as far as the first Spanish Report, from the Director General's Office of the Juvenile Court, previously part of the Ministry of Labour and Social Affairs (Ministerio de Trabajo y Asuntos Sociales, MTAS) enclosed a record that showed the meaningful opinion of a group of NGO on some points of the official report; years later, it created a "Complementary Report to the second Report given by Spain to the United Nation's Children's Rights Committee on the application of the Convention of Children's Rights in Spain".

The process that has taken place to create this Complementary Report, started in 2007, and it has been supported by the creation of a workgroup within the Plataforma de Infancia, which encouraged all member entities to participate, which was then oriented and supported by the technical office of the Plataforma de Infancia. This resulted in ten working subgroups that were created to specifically work on different areas: children's participation, communication media and information technologies, family environment and alternative care; unaccompanied foreign minors, violence, basic health and welfare, poverty and social exclusion, education, right to play and juvenile justice. Throughout all sections, consideration was given to issues related to gender equality, disabilities, rural conditions, and CRC's general principles.

The part which refers to the application of general measures of implementation, definition of the child and CRC's general principles was created by the technical staff of the Plataforma de Infancia. As far as they are concerned, CRC's optional protocols have not been finally focused on in this Complementary Report, given the recent evaluation of their application by the Committee.

The paragraphs included in each of the chapters about measures taken in response to the Committee's final observations; positive and negative changes made since the last report, new areas of concern; obstacles encountered when complying with CRC, and finally, a few precise suggestions and measures.

In order to create each section, the subgroups were given an initial document, which contained references to the CRC, the Committee's latest recommendations to Spain, from June 2002 as far as its general approach, should it exist, together with a summary of the information included in Spain's III and IV Reports. They also relied on the content of the National Strategic Plan for Childhood and Adolescence (Plan Estratégico Nacional de Infancia y Adolescencia, PENIA) 2006-2009.

As far as children's participation is concerned, this document includes in an important manner the results of the discussion carried out in 2008 with a total of 271 boys and girls, between the ages of 10 and 17, on their rights and their fulfillment.

The 113 boys and 158 girls, who were questioned, reside in seven Autonomous Communities (Comunidades Autónomas, CCAA), and they take part in social-recreation-leisure programs with entities that are part of the Plataforma de Infancia.

The information was compiled through group questioning and through individual surveys, which included closed and open questions about eleven specific optional subjects, focused on in the current Complementary Report. The choice of the specific subjects was a responsibility of the organizations that participated, paying attention to each participating child's and group's particular situation. Open questions allowed boys and girls to express their opinions according to their own particular speaking styles and have been transcribed literally.

The Plataforma de Infancia recognizes the progress made by incorporating the opinions and proposals from boys and girls in the current report. Plataforma de Infancia plans to continue efforts to create a permanent mechanism, which will allow children to be included in the ongoing evaluation of the application of the CRC in Spain.

Finally, we must mention that we have sent this document to the Committee on the Rights of the Child, as well as a CD, which includes the main annexes considered.

This Report's final draft was also ratified in the Plataforma de Infancia's General Assembly which took place in October 2009.

## NATIONAL AND REGIONAL CONTEXT

From a demographical point of view, these last few years Spain has experienced a considerable growth of its population, partly due to a slight recovery of the vegetative growth and, above all, to an obvious increase of immigrant population.

Thus, according to the National Institute of Statistics (Instituto Nacional de Estadística, INE) local poll, with data updated on July 1st every year, the evolution of population in Spain has gone from a total of 41.837.894 in 2002 (which corresponds to 39.859.948 Spanish population and 1.977.946 foreign population) to a total of 44.108.530 in 2005 (representing 40.377.920 Spanish population and 3.730.610 foreign population). On the other hand, the vegetative balance (the number of the born and deceased for every 1.000 inhabitants, and to data from INE as well) would show an important decrease started in 1975 which, having reached its lowest point in 1999, would have begun then the mentioned increase.

As far as the percentage of foreign employment over native employment, its increase would have started from a 0,51% in 1999, a 1,86% in 2000, reaching 12,25% in 2007. This way, it would have been noticed Spain's evolution from being a country traditionally sending out immigrants to one receiving them. Once the political transition was over, there would have been an increase of the flow of property and capital until reaching, these last few years, the flow of people.

The maps of population's density point out urban areas as the strongest poles of attraction, especially Madrid's central zone, together with the coastal area and the islands.

Behind the demographical and labor increase mentioned, it appears in a very important way the attraction the country has created in its surroundings, given the growing economic cycle of nearly ten years, in macro-economic terms, having started at the end of the nineties.

The three sources of economic growth in recent years (using as a source the percentage of economic growth of the Gross National Product, GNP) are: from 1996 to 2000 the service sector (43%), heavy industry (20%), and net taxes on goods (12%); and between 2001 to 2005 the service sector (50%), construction (15%), and net taxes on goods sold (14%).

In spite of adding other optimistic figures, such as the increase in income per capita, a close look shows an unequal distribution among Autonomous Communities (Comunidades Autónomas, CCAA), unequal among persons, and between the sexes (which indicates the persistence of gender inequality).

To the above mentioned we should add the clear increase in the unemployment rate, which is accompanied with increases in family debt that has tripled since 1996, and has been noticed by the Bank of Spain as a risk factor.

Equally, it can be observed that the economic growth mentioned was not translated into an increase in social investments with relation with the GNP.



According to recent data from the Bank of Spain in its May 2009 economic bulletin, remarks on the recent evolution of the Spanish economy, and also according to the latest figures from the Quarterly National Accounts (Contabilidad Nacional Trimestral, CNTR), in the first quarter of 2009 deterioration of the economic activity intensified, registering a real GNP with a drop interannual of 3%, compared with a small decline of 0,7% in the previous quarter of 2008. This drop in economic activity in the first three months of the year was due to an intense change in the consumer demand, where private consumption showed a special weakness. Although, the net exterior demand maintained a positive increase. On the issue of supply, all sectors have registered a fall in production. In addition, the CNTR attributes in the first quarter of 2009 an interannual rhythm of destruction of jobs intensified.

In the political arena it should be noted that since 2002 the weight of the central government has fallen on the shoulders of the two main political parties: the People's Party (Partido Popular, PP) in the coinciding with general elections from the period in 2000 until the elections celebrated in 2004 (when they one with an ample majority), and the Spanish Socialist Worker's Party (Partido Socialista Obrero Español, PSOE), who one the elections afterwards in 2004 and were newly elected in the elections of 2008.

On behalf of the media, in recent years, they have given more coverage to social issues related with children. Of these initiatives, we highlight their coverage of issues of gender, domestic violence including towards children, the issue of peer abuse in school, juvenile justice, unaccompanied foreign minors (menores extranjeros no acompañados, MENAS), and the media including information and communication technologies (tecnologías de la información y de la comunicación, TIC).

As far as the situation in Europe, it is noteworthy the presentation of the European Commission in July of 2006 in the European Parliament the Communication with the title "Towards a EU Strategy on Child Rights", this was the first declaration emitted by the Commission in the history of European Institutions to impulse a child rights strategy for the whole region.

Benefits of this particular regional situation are the specific efforts made in this Complementary Report to deal with two issues that were not included in the previous report of the Plataforma de Infancia: communication media and information technologies on one hand, and poverty and social exclusion on the other.

Lastly, it should be indicated that since the middle 90s, the third sector of social actions has experimented in Spain a huge growth, with a strengthening of these organizations in recent years. This has brought about a growing level of specialization of different children's issues. Without a doubt, they have been supported by the framework created by the Convention on the Rights of the Child (CRC) years before. Equally worth mentioning are the creation of networks and coalitions for associations.

## MAIN RECOMMENDATIONS

### I. General measures of implementation, definition of the child and general principles

#### ► Legislation

- Explicit recognition of the Convention on the Rights of the Child (CRC) as part of the law and as a judicial instrument, which would include true application of those general principles.

#### ► Coordination and global strategy

- Reinforce with effective coordination among national public organizations.
- Strengthen the Childhood Observatory (Observatorio de la Infancia estatal), through necessary resources.
- Parallel strengthening of the already existing observatories in the Autonomous Communities (Comunidades Autónomas, CCAA) and provide incentives for those regions where no observatories exist.
- Promote the exchange of experiences (best practices) at the local level.
- Establish in the next National Strategic Plan for Childhood and Adolescence (Plan Estratégico Nacional de Infancia y Adolescencia, PENIA) indicators and goals that permit an effective control of the plan's development and evaluation.

#### ► Resources

- Guarantee that all children independent of their residence receive equal access to basic social services.

#### ► Data collection

- Articulate an information system shared on national and regional levels that allows for real analysis of the real state of children's affairs, for policy design and evaluation.

#### ► Dissemination of the CRC

- Improve communication of the CRC among adults and professionals, in general, and with children and adolescents, in particular.

### II. Civil rights and freedoms

#### ► Children's participation

- Design of standards for intervention related to children's participation in collaboration with distinct actors involved in and under the guidelines of the CRC. This improvement on the procedures of participation should include the promotion of methodologies that are fun and attractive, and it should be clear beforehand that these interventions should respond to the following issues:
  - Who will receive their ideas.
  - How will their ideas be used.
  - The possibility to meet and interact with those responsible for policy development.
  - Spaces for children who participate to meet and exchange ideas.

- Promotion of adapted and stable structures designed for children's participation. Including separations according to different age groups, such as child and juvenile associations, for student clubs, and representation at school.

► **Communication media and information technologies<sup>2</sup>**

- The Spanish government and the autonomous governments should increase their financing making sustainable projects related to the creation and investigation of children's products such as video games, digital and audiovisual productions. These initiatives should be coordinated with the distinct Public Administrations (Administraciones Públicas, AAPP) and other connected organizations both public and private.
- Promote within media organizations the creation of a professional consultant for issues related to children or a consultant for children's rights. This figure would be a referee and consultant in any issue related to company policy or actions that effect children. They would also evaluate the application of internal policy as well as compliance with principles and proposals, made by the CRC.

### III. Family environment and alternative care

► **Family environment and alternative care**

- Harmonization of the different procedures related to the protection of minors among the different CCAA, in order to assure an agreement on minimum levels of intervention.
- It should be a priority to reinforce the services that support families including those that intervene, treat and accompany, having in mind the differences that exist between CCAA.

► **Unaccompanied foreign minors. Special reference to article 22**

- Guarantee in first instance, once identified as unaccompanied foreign minors that an individual analysis with the personal circumstances of each child is made, determining in this analysis the best interest of the child in order to take the most adequate measures for their situation.
- Elaborate a protocol for repatriation in order to reunite the child with family, with the objective of unifying practice throughout the nation in order to guarantee a national and international minimum, especially:
  - That any decision taken responds to the best interest of the child (individual analysis on a case-by-case basis of the socio-familiar situation in the country of origin).
  - Take into consideration the opinion of the child and that of their family.
  - Guarantee the right to a judicial tutelage through the mediation of an independent legal representative at all times.
  - That all rights are guaranteed while executing the order for repatriation.

► **Violence. Special reference to articles 34, 35 and 36**

- Approval of an integral law on violence towards children, just as those that exist for victims of abuse and domestic violence. One that guarantees to reestablish their rights and to establish minimums between the different CCAA.
- General training on prevention and attention to victims of childhood violence for all professionals directly involved. Assuring the inclusion of the above-mentioned issues in

<sup>2</sup>The term in Spanish is: "Medios de comunicación y tecnologías de la información y de la comunicación (TIC)". It implies the media including those media outlets in Internet.

the academic content of related university studies. This professional training should be reinforced and encourage working and exchange within a multidisciplinary network.

## IV. Basic health and welfare

### ► Basic health and welfare

- Reform of the infantile and juvenile health systems, especially the increase of specialists in pediatrics, as well as recognition and development of specialists in childhood psychiatry.
- Development of protocols in primary healthcare and promotion of networks for health, education (formal and non formal) and family for the prevention and early detection for behavioral and mental health problems for children.

### ► Poverty and social exclusion

- The Spanish government and the regional and municipal administrations should considerably increasing their resources for family and children, with particular focus on the fight against childhood poverty. These resources must be maintained throughout the years, coordinated among the distinct public administrations and complement other investments in goods and services. A protective system that is much more widespread and efficient than the present one would make possible a reduction in the number of incidents related with childhood poverty, as well as its persistence to continue and differentiate Spain from other neighboring countries.
- There is an urgent need to plan and coordinate actions that fight the high levels of childhood poverty in Spain. We recommend the creation of a National Plan against childhood poverty that establishes a coherent framework in which we can identify priorities actions to fight against exclusion, included, should be specific and measurable objectives, with clear indicators, with timeframes, and with the necessary economic and financial support. This plan should be capable of effectively coordinating actions on a national, autonomous and municipal level including specialized areas (especially economy, health, social policy, and education), which all have major responsibilities with children.

## V. Education, leisure and cultural activities

### ► Education

- Achieve a State Pact for Education, which is in progress.
- Assure a balanced distribution of the resources among CCAA.

### ► Non formal education

- Promote necessary legislation for the adequate regulation of activities and spaces for recreation and leisure time assuring an educative character to these spaces of non formal education.
- Increase in the budgets destined for non formal education at all levels of public administration.

### ► Right to play

- Establishment of a nationwide regulation with minimum requisites related to spaces for recreation and leisure time destined for children.
- Adoption of special actions to insure the rights of children to play for specific collectives who require more attention and resources so as to be able to access services and spaces under equal conditions, such as in hospitals and in centers designed to protect or reform. Those

cited collectives are children from the ethnic group of gypsies; children of migrant workers (especially when their situation of permanence does not align with legality); children that are unaccompanied foreign minors; children with disabilities. Some of these actions would be access to spaces; existence of special support staff to assure access; training on special education; creation of opportunities for true participation.

## VI. Special protection measures

### ► Juvenile justice

- Promotion of a similar treatment for all girls and boys who are processed by juvenile court with an applicable standard and with available resources, with independence of where the child is in Spanish territory.
- Advances should be made in the use of alternatives to internment and the mechanisms used by restorative justice; this should be done through more resources both material and human. Consider that in rural areas the signing of a higher number of agreements with local entities is necessary for the execution of measures related with carrying out of these services.

## SUBJECTS

### I. General measures of implementation, definition of the child and general principles

#### MEASURES

*Adopted as a response to the last observations  
made by the Committee on the Rights of the Child*

With respect to the insufficient improvements indicated by the Committee in their previous observations, we indicate the following issues:

- ▶ **Legislation:** insufficient recognition of the Convention on the Rights of the Child (CRC) as part of a positive law:
  - Development of legislation with basic rights and obligations recognized within the CRC: respect for the principles and dispositions recognized within the new regulations that have taken place since 2002, with independence of some modifications that have been made with uneven coverage and civil support in distinct areas.
  - More explicit recognition of the CRC as a valid judicial instrument: there is an evident recognition through diverse sentences dictated by the Constitutional Court (Tribunal Constitucional, TC), the Supreme Court (Tribunal Supremo, TS) and the Superior Courts of Justice (Tribunales Superiores de Justicia, TSJ) of the Autonomous Communities (Comunidades Autónomas, CCAA).
  - Harmonization of the age of majority among the CCAA: just as is highlighted in the III and IV report on the application of the CRC in Spain, the articulation of the Civil Code (Código Civil, CC) is done respecting the special civil law existent in different CCAA and provinces. It is understood that there is a general acceptance that the age of majority is 18 years old.
- ▶ **Coordination and global strategy:**
  - Improvement in the coordination among official organizations on a national, autonomous and local level: advancements have been obtained thanks to efforts made by these institutions. As well, the Childhood Observatory (Observatorio de la Infancia estatal) has continued to function as an institution destined to compile, analyze and inform; so as to contribute to knowledge about the reality, design or reorientation of policy. On the other hand as a clearing house for the exchange of best practices and the coordinated promotion of activities on a national level. With the continued and ample participation in diverse organizations linked to children through the national, autonomous and local administrations as well as representatives of the civil society.  
They have also promoted actions the autonomous observatories that exist in Andalucía, Cataluña and the Principado de Asturias; other similar institutions, such as the Agency for Emergency Families Services in Madrid (Unidad de Orientación a la Familia ante Momentos Difíciles), the Observatory in Valencia for the socio-labor integration of minors (Observatorio de la Comunidad Valenciana de Inserción Sociolaboral de Menores y Jóvenes de los Sistemas de Protección y Reeducción de Menores) and the protections and re-education



system of minors promoted in Cantabria, Galicia and País Vasco; the Local Network in favor of Children's and Adolescents Rights (Red Local a favor de los Derechos de la Infancia y la Adolescencia); other similar organizations are created specifically for youth.

There also exist other mechanisms for coordination, such as the Social Services Conference (Conferencia Sectorial de Asuntos Sociales), the Interregional Commission for Managing Directors of Children and Family (la Comisión Interautonómica de Directores Generales de Infancia y Familia), and the technical commission of the CCAA.

- Elaboration of a global strategy for children: approved through the Minister's Council (Consejo de Ministros) in June of 2006, the first National Strategic Plan for Childhood and Adolescence (Plan Estratégico Nacional de Infancia y Adolescencia 2006-2009, PENIA). Its approval is an advancement in its own right, as the strategy articulates 11 strategic objectives, which are the main objectives by which child right's policy should be developed on a national level. Equally it should be noted the objective to construct a culture of cooperation that has been present since its inception. Apart from the ample institutional representation and social through organizations implicated in the design, application, and follow up, we highlight the consideration in writing of the most recent final observations of the Committee on the Rights of the Child, as well as the incorporation and participation of pre-adolescents in the elaborations through diverse dynamics and tools. We should emphasize the adapted edition of the "PENIA 2006-2009 for boys and girls. Guide for the application of the rights of children and adolescents in Spain", as well as the participation of infants and young children under way for the evaluation of the Plan.

► **Data Collection:** concern for the delays and fragmentation of information as characteristics of the variety of systems and indicators that exist in each Autonomous Community (Comunidad Autónoma, CA):

- Improvement of the systems related to collection and analysis of information related with minors under 18 years of age, especially in relation with those most vulnerable groups: continue with the functioning of the Statistical Bulletin on the actions to protect children (Boletín Estadístico de Medidas de Protección a la Infancia) with this data registered through the National Institute of Statistics (Instituto Nacional de Estadística, INE), since 2005, and the Statistical Bulletin of measures taken within the juvenile justice system (Boletín Estadístico de Medidas Impuestas a Menores Infractores), since 2001.

► **Dissemination:** the education and training of children, to the general population and professional groups in particular that require permanent attention.

- Strengthening the mechanisms to disseminate, using material adequate for children and translated to the languages spoken within Spanish territory: existence of diverse initiatives that are driven by the different administrations. On the other hand, incorporated into the developing legislations on education that have taken place in recent years and specifically related to the learning in primary and secondary Education of Human Rights, in general, and for children in particular.
- Initiation of programs that guarantee the education and training of all professional groups related with children: in this area there is evidence that certain activities have taken place from the national and autonomous administrations, and from other areas: tourism, judicial, medicine, educational, and the various security forces of the state.

► **No discrimination**

- Identification of any form of discrimination, especially by those most vulnerable groups: as commented in the III and IV report of the State, this matter is recognized within the Spanish Constitution (Constitución Española, CE) and the Organic Law (Ley Orgánica, LO)

1/1996, of 15 of January, on judicial protection of the minor and the partial modification of the CC and the Civil Procedure Law (Ley de Enjuiciamiento Civil, LEC), as well as the laws of the different autonomous regions. As well as those most vulnerable groups, which have provoked diverse actions from the national and autonomous administrators directed to children of origin Romani, children of migrant workers, unaccompanied foreign minors (menores extranjeros no acompañados, MENAS), and children with disabilities.

## CHANGES

*Both positive and negative that have taken place since the last report  
New areas of concern*

The following are considered positive changes:

- ▶ Relevant legislative development, on the national level:
  - Law 36/2002, of 8 of October, with modifications of the CC on material related to nationality.
  - LO 9/2002, of 10 of December, with modifications of the LO 10/1995, of 23 of November, from the Criminal Code (Código Penal, CP), and from the CC, about the abduction of minors.
  - Law 51/2003, of 2 of December, about equal opportunities, intolerance and universal accessibility for those with disabilities.
  - LO 1/2004, of 28 of December, on measures to protect against domestic violence.
  - Royal Decree (Real Decreto, RD) 2393/2004, of 30 of December, by which there is an approval of the regulations of the LO 4/2000, of 11 of January, on rights and liberties of foreigners in Spain and their social integration.
  - RD 1774/2004, of 30 of July, by which there is the approval of regulations in the LO 5/2000, of 12 of January, which regulates the penal responsibilities of minors.
  - LO 3/2005, of 8 of July, modifies the LO 6/1985, of 1 of July, of judicial powers, to enforce outside of Spanish territory the practice of female genital mutilation.
  - Law 15/2005, of 8 of July, which modifies the CC and the LEC concerning separations and divorce.
  - Law 27/2005, of 30 of November, which promotes education and peace culture.
  - LO 2/2006, of 3 of May, on education.
  - Law 39/2006, of 14 of December, to promote personal autonomy and attention to persons with special needs.
  - Law 54/2007, of 28 of December, on international adoption.
  - LO 3/2007, of 22 of March, for effective gender equality.

Equally, there has been a noticeable development of laws on an autonomous level.

- ▶ Approval of different plans related to children on autonomous and local levels. Functioning plans are in vigor in the following CCAA: Andalucía, Canarias, Cantabria, Castilla-La Mancha, Castilla y León, Cataluña, Galicia, Islas Baleares, La Rioja, Madrid, Navarra, Principado de Asturias and Valencia. From a municipal level, highlight efforts made by the “Child-Friendly Cities” Program (Programa Ciudades Amigas de la Infancia) for the incorporation of plans on the local level.
- ▶ Approval of other relevant National Plans.
- ▶ Strengthening of issues related to children through the figure of the Ombudsperson related to adults or children, which are well extended throughout the nation.

- ▶ Participation of civil society in the design, application, and evaluation of policies, through individual organizations or through the Plataforma de Infancia as national coalition.
- ▶ International Cooperation: maintain promises made by the government to reach 0,7% of the Gross National Product (GNP) by 2012 in this area; references to the CRC in the development of the actions taken by the Ministry of Foreign Affairs and Cooperation (Ministerio de Asuntos Exteriores y Cooperación, MAEC); bilateral and multilateral cooperation, principally with European nations, the Maghreb and Latin America; destination of help from the program IPEC for “Elimination of Child Labor in Ibero-America” in collaboration with the International Labor Organization (ILO); design of a new strategy for development in 2009-2012, with emphasis in the preferred area of education. To the above mentioned, inclusion should be made to the PENIA 2006-2009, along with other actions on a autonomous and local level.

On the contrary, there are concerns related to:

- ▶ Legislative development: no modifications of legislation took place, contrary to what was solicited by the Committee in their most recent report, maintaining 14 years of age as the minimum age to contract marriage with a judicial permission. Pending, is an ample revision of the minimum ages in which the law considers a child responsible for his/her actions, in compliance with the framework offered through the CRC, just as was noted in Strategic Objective 6 of PENIA 2006-2009.
- ▶ Coordination: referring to the Childhood Observatory and its national reach, in spite of the work done, has not been specifically established as a coordinating organization. Its characteristics, its decisions, and agreements taken within its walls are not necessarily adhered to by member organizations, so actions that are placed into motion for the most part depend on political resolve and a certain level of commitment on behalf of the organizations that belong to the Observatory, which both subtract effectiveness to the functioning of the organization. As well, the resources available to start up initiatives adequately are clearly limited, stimulus for diverse investigations and studies are not sustained over time. Equally, it is observed that the functioning is uneven in the different workgroups created. On their behalf, with respect to the PENIA 2006-2009, their reference indicators to follow up, do not contain neither minimums, nor goals, having overall a character which is primarily quantitative. As well as the inexistence of a specific budget to carry out these actions or an evaluation at midterm which has not been analytical, and limited to including an uneven listing of activities. With respect to those actions developed with children through PENIA 2006-2009 by the Plataforma de Infancia, it can be noted a clear initial unawareness about the policies related with children in general, and with PENIA, in particular.
- ▶ Resources: differences among the different CCAA, which do not guarantee all children the same access to basic services with independence of their place of residence and the level of decentralization or delegated responsibilities that the autonomous regions enjoy. It does not look as though funding has been distributed “up to the maximum of the resources available”, having in mind the decade was so economically favorable that Spain has experienced since the late nineties. Also maintained are the weakness of real budgets directed to children’s issues, which further difficult a national, autonomous or local survey. According to the data received from PENIA 2006-2009, as well as, from the III and IV CRC application report in Spain on the total expenses incurred by adolescent and children’s policies, according to the data available up to 2007, a clear increase on spending from 2002 to 2006 but was reduced drastically afterwards. We should have in mind the low level of spending related to children

and families normally, clearly inferior to the rest of the countries of the European Union (EU). In particular, the total budget destined to policies related to children and adolescents by the central administration increased 33,9% between the years 2002 and 2006, between 15,5% during 2006 and 2007, and the budgets of the Autonomous administrations grew 68,7% between 2002 and 2006, and 8,8% between 2006 and 2007. Therefore, the total of the budgets destined by both administrations mentioned grew 63,0% between 2002 and 2006, and 9,7% between 2006 and 2007. To the above mentioned it should be added the actual economic crisis, which creates concern for a drastic reduction in the investments related to children in upcoming years.

- ▶ It persists the absence of an integral system for the collection and analysis of information. The limited and diverse indicators available for each area, both on a national and autonomous level, obstruct knowledge about reality, and how to redesign or re-oriented if needed, policy. On the other hand, there is not a unified organization of age ranges used by Institutes and Centers for investigation, such as the National Institute of Statistics (Instituto Nacional de Estadística, INE), or the National Youth Institute (Instituto de la Juventud, INJUVE), the Center for Sociology Research (Centro de Investigaciones Sociológicas, CIS) and the Superior Center for Scientific Research (Centro Superior de Investigaciones Científicas, CSIC).
- ▶ Knowledge about the CRC continues to be clearly insufficient among the general population and with children and adolescents in particular. At the same time, it continues to avoid being translated into material accessible for children, which also means being translated into the co-official languages of the country, and adapted to the realities of those persons with disabilities. On the other hand, the efforts to train professionals in direct contact with children are insufficient. The lack of knowledge of these professionals with the general framework of the CRC continues to be extended.
- ▶ In the context of a general dissemination, as was solicited by the Committee on the II report from Spain on the application of the CRC 1993-1997, this has not taken place with the required projection, just as it has not taken place the diffusion of the latest final observations made by the Committee to Spain in 2002. It is recognized, in any case, the diverse actions promoted by the Childhood Observatory and other experiences promoted by four CCAA. It is considered relevant the role played in this sense by the civil society.

## OBSTACLES

*Found in the carrying out of obligations  
required by the CRC*

- ▶ Real application of the general principles of the CRC:
  - Article (Art.) 2 (non discrimination): with independence of the different measures advanced and already mentioned, and the importance of each measure, equal attention should have been given to other issues and groups, such as gender equality and childhood poverty.
  - Art. 3 (best interest of the child): although this principle has served for legal texts by judges and tribunals, its arguments need to be extended.
  - Art. 6 (right to life, survival and development): the information available with respect to its application normally refers to initiatives that take place within CCAA.
  - Art. 12 (right to express views freely): in spite of the recognition made by the TC and the impulse of several actions directed to communicating both on a national and a regional level, its application in all areas of life of a child, just as is established in the CRC, continues to be a challenge.
- ▶ There continues the nonexistent coordination among the different levels of the administration, within each of them separately and among different organizations linked to children. The development and reinforcement of policies between sectors linked to childhood have not taken place as has been requested.
- ▶ It is somewhat complex the efficient use of information available for the formulation and evaluation of policies related to children.

## RECOMMENDATIONS

- ▶ **Legislation:**
  - Explicit recognition of the CRC as part of the law and as a judicial instrument, which would include true application of those general principles.
  - Increase in the minimum age to contract marriage and a harmonization of the rest of ages on a national and autonomous level when applying judicial sentences upon children.
- ▶ **Coordination and global strategy:**
  - Reinforce with effective coordination among national public organizations.
  - Strengthen the Childhood Observatory, through necessary resources.
  - Parallel strengthening of the already existing observatories in the CCAA and provide incentives for those regions where no observatories exist.
  - Promote the exchange of experiences (best practices) at the local level.
  - Establish in the next PENIA indicators and goals that permit an effective control of the plan's development and evaluation.
  - Promote Autonomous and Local plans for Children.

► **Resources:**

- Guarantee that all children, independent of their residence, receive equal access to basic social services.
- General increase in resources dedicated to children.
- Stimulate improvements in the elaboration and diffusion of a real budget destined to children at all levels.
- Assure that all new laws and plans that are created are accompanied with budgets.

► **Data collection:**

- Articulate an information system shared on national and regional levels that allows for real analysis of the real state of children's affairs, for policy design and evaluation.

► **Dissemination of the CRC:**

- Improve communication of the CRC among adults and professionals, in general, and with children and adolescents, in particular.

► **Communication of report:**

- Ample diffusion of the III and IV State Report, as well as the concluding observations that the Committee extracts for public scrutiny upon examinations and from the present Complementary Report among other information of interest.



## II. Civil rights and freedoms

### Children's participation

#### MEASURES

*Adopted as a response to the last observations  
made by the Committee on the Rights of the Child*

The main observation made by the Committee in relation to childhood participation reiterates a previous recommendation for the adequate integration of the general principles of the Convention, including article (art.) 12, in all laws pertaining to children; its application in all political, judicial and administrative decisions as well as in projects, programs, and services which affect children; equally, its application in the planning and formulation of policies on all levels, and in the educational institutions, social services and healthcare, courts and administrative authorities.

In this sense, there is an effort to adapt all new regulations to the content of the Convention on the Rights of the Child (CRC) and respect it when judicial decisions take place, is relatively widespread, however the application of the right to childhood participation in all political and administrative decisions, including the planning and formulation of projects, is far from being real.

#### CHANGES

*Both positive and negative that have taken place since the last report  
New areas of concern*

In the present report the right of the child to participate has taken place, using as a reference the work done with 601.569 children and youth that represent a cross section of the population of those member organizations of the Plataforma de Infancia. This participation can be grouped into different categories: participation in recreation and leisure time, in school, family, and citizenship.

With respect to recreation and leisure time 64% of the children and adolescents who participate in an association do it in a sports organization, 31% participate in artistic organizations and 8% in organizations related to solidarity. Participation through associations, along with participation in the area of family, are those that are most valued (Vidal and Mota, 2008).

According to data from different surveys and consultations coordinated by the Plataforma de Infancia and its member organizations, there is a low level of children and youth participation in all areas, which decreases progressively as children grow up.

Since 2002 significant advances have taken place to promote the rights of children to participate:

- In the National Strategic Plan for Childhood and Adolescence 2006-2009 (Plan Estratégico Nacional de Infancia y Adolescencia, PENIA), this guide for the application of children's rights in Spain, has as one of its 11 strategic objectives the right to children's participation, establishing that it will be guaranteed "(...) the realization of effective participation of children and adolescents, as

citizens with full rights, with the objective to favor social integration and participation in the decision making process, of all issues that effect them”. Within the measures, highlighted is 11.6, destined to “Promote children’s participation through the initiation of stable and permanent experiences in children and youth participation by municipalities, celebrating conferences to exchange best practices on a periodic basis”.

- The development in the last three years of a judicial framework in the Autonomous Regions for issues related to children and adolescents, with the inclusion in all of the Autonomous Communities (Comunidades Autónomas, CCAA) of objectives destined to favor children’s participation.
- The modification of regulations related to children’s associations, that since 2002 favor the real development of children’s groups through the Organic Law (Ley Orgánica, LO) 1/2002, of 22 of March, that regulates the right to associate. This law establishes in art. 3 about “Capacity” the possibility that associations can be established and that their members can be minors (not emancipated) over the age of 14 years of age with the documented consent of a parent or guardian, for those who need special access without harm to the regime for youth, children and student associations included in the LO 1/1996, of 15 of January, about the judicial protection of the minor.

On the other hand, there is significant data on the evolution of population under the age of 18 in Spain between 2006-2008, which highlights the increase by 4,89%, reports which also request serious reflection on the unequal growth of resources and, in the case, of immigrant populations, presents an evolution of 37,38% in 2006, which only increases the difficulties in the access to participation on behalf of this population group (National Institute of Statistics, Instituto Nacional de Estadística, INE, 2009).

As far as advances and pending issues with children’s participation in each area where they occur:

- As far as participation at school, with the reference of actions in 201 centers with a total of 26.417 participants, there is a clear absence of methodologies and systems to encourage participation at school (Fundación Yehudi Menuhin España, 2009). Although there are significant experiences, such as centers that integrate student participation into the General Center Plan or into “Learning communities”, these experiences are isolated and there does not exist a concerted effort to generate sustainable structures. With the application of the new education law there is no evidence that delays related to participation in the previous education laws have been resolved. Children’s participation in the governing bodies of schools is merely testimonial, with independence that some school committees, delegations and other similar figures, have lost their capacity to direct the centers and maintain only testimonial tasks. In many cases the figure of the student representative has simply disappeared.
- As far as participation through families, the children comment about “suffering” from a certain level of autonomy; in spite of that, it is the most valued space. Although there is a general lack of knowledge about the right to participate most children are unaware of the real impact of their right to participate.
- As far as citizen participation, many children’s organizations consider that according to a comparative analysis among CCAA and municipalities, municipalities are giving the most opportunities for children to express their opinion. In spite of this the general opinion of the children is negative.

- Finally, related to the media and to information and communication technologies (tecnologías de la información y de la comunicación, TIC) as a “space” for children’s participation, it is considered that the rapidly growing tools are an opportunity to promote children’s participation, always when these social networks do not become the only way of participation. This declaration is based on the reality that the social networks on Internet tend to prioritize instant satisfaction due to the absence of any type of coexistence and therefore, without any type of experimentation and learning that take place from the solution to conflicts.

## OBSTACLES

*Found in the carrying out of obligations  
required by the CRC*

- The difficulties found in order to convey concrete data on children and adolescents, and especially on children’s participation, illustrate the problems that exist on the availability of information about children and their situation in Spain. Unavailable data with the exception of information pertaining to registration in school and basic services; that information available is frequently opinionated and insufficient. The Center for Sociology Research (Centro de Investigaciones Sociológicas, CIS) has very few studies within this segment of the population, while the INE hardly has any data which differentiates relevant conditions, issues of disabilities, residence in rural or urban areas. Similarly, there are some significant studies sponsored by other organizations distinct from those mentioned that work with these special circumstances, disabilities, gender, immigration, and once again the work is presented with bias.
- In every case, it can be observed a lopsided exercise of the right to participate among children and adolescents due to the variable mentioned above. While rural areas are more likely to appear initiatives in children’s participation and to maintain those initiatives, those groups that are most vulnerable are the immigrant population and the children with some type of disability.
- On a national level, the right to children’s participation is observed in the LO 1/1996, of 15 of January, of the judicial protection of the minor, and with greater detail in its development, in the legislation of the CCAA, which is where the majority of responsibilities related to childhood are located. Although, it is in the application of the legislation where can be found the most deficiencies due to budget restrictions and due to the absence of mechanisms that make effective children’s participation.
- With relation to the previous observation, the investments of autonomous and local administrations, continue to be inadequate when promoting associations dedicated to children, adolescents, and youth, as if there were still a lack of confidence in the possibilities of these organizations and their positive impact on children. There can be observed inequitable economic and financial support for these activities, which difficults their growth and development.
- There exists a general unawareness about the right of children, and particularly, ignorance about the right to participate, this unawareness is shared by both children and adults. This is also the factor which affects the low levels of sustained communication about the rights of children and adolescents by the administrations.

- ▶ On a local level, although it appears to have better results, concerning its efforts to promote children's participation in comparison with the CCAA, there is a low level of development of plans for children on the local administrative level. Together with the respective budgets, it would provide the necessary development of the theoretical framework that the actual legislation offers.
- ▶ Besides the cases already cited, lack of knowledge of the law on child participation and intermittent and insufficient disclosure, the virtual absence of stable structures, as well as adequate resources for marketing, may be added others such as the absence of methodologies for implementation of child participation activities, the prevailing image in society of children and adolescents based on overprotection, mistrust and the perception that their opinions are devoid of content and logic, and a lack of knowledge and training on child participation at all levels.
- ▶ Because of the low participation levels, the associations in general are weakened, civic values decline, and the socialization of children and adolescents is more complex. It has been detected delayed exercise of citizenship and this implies that adolescents and young people do not trust the channels offered for citizenship to meet their needs and problems. All that can provoke a radicalization of attitudes and conflicts, influencing dramatically in society.
- ▶ Even in cases where child participation does exist, children, as well as childhood organizations, have identified a lack of autonomy desirable in these processes, and more specifically in management from the beginning of these processes by children and adolescents.



#### How embarrassing...

At the time of assessing the environments where children have greater ability and freedom to express their opinions, boys and girls rate higher friends, family and associations, while the ratings of neighbourhood and City Hall are low.

## RECOMMENDATIONS



#### Speaking out loud...

"Our homes are the best place to start understanding the meaning of freedom of expression."

- ▶ Promotion of awareness activities and dissemination of information and initiatives on participation as a fundamental right for children, promoting the customization of activities to the reality of each child.
- ▶ Design of standards for intervention related to children's participation in collaboration with distinct actors involved in and under the guidelines of the CRC. This improvement on the procedures of participation should include the promotion of methodologies that are fun and attractive, and it should be clear beforehand that these interventions should respond to the following issues:
  - Who will receive their ideas.

- How will their ideas be used.
  - The possibility to meet and interact with those responsible for policy development.
  - Spaces for children who participate to meet and exchange ideas.
- ▶ Promotion of adapted and stable structures designed for children's participation. Including separations according to different age groups, such as child and juvenile associations, for student clubs, and representation at school.
  - ▶ Development of local networks of authorized spaces for children and adolescents, like those that already exist with regard to youth.
  - ▶ Development of a specific national plan to promote child participation in collaboration with regional and local administrations.
  - ▶ Development within the next PENIA of an objective or strategic line that helps to establish and regulate the various possible systems of participation and inclusion of the views of children on all those areas in which they have contacted with different levels of government. The plan must be accompanied by the relevant economic and financial details for its development and the respective tracking tools.
  - ▶ Regulate under criteria of quality and universality the existence of local plans for children and youth, establishing a dialogue on the issue with the Spanish Federation of Municipalities and Provinces (Federación Española de Municipios y Provincias, FEMP).
  - ▶ Improve the momentum of actions through the signing of agreements and contracts to equip organizations with stability and budget supported operations, while ensuring compliance with standards. Give special support to those organizations that promote active participation.
  - ▶ Training on the principles of child participation to all social agents in general and public administration professionals dedicated to children, in particular.
  - ▶ Schools:
    - Incorporation of child participation as a horizontal objective of the center for the entire school community.
    - Sharing of physical spaces and time to promote youth associations.
    - Development of actions aimed at improving the training of educators about child participation.
  - ▶ Targeted support to schools that encourage participation of children.

## Communication media and TIC

### MEASURES

*Adopted as a response to the last observations  
made by the Committee on the Rights of the Child*

No comments have been aimed specifically reflecting the application of the rights to free speech, freedom of expression, protection of privacy or access to information, all of these related to media and information and communication technologies (tecnologías de la información y de la comunicación, TIC), although there are recommendations regarding the dissemination of the Convention on the Rights of the Child (CRC) through the media.

### CHANGES

*Both positive and negative that have taken place since the last report  
New areas of concern*

The relationship established between children and the media and TIC is an issue that arouses, and has long been a major concern in our society. It notes the existence of a widespread view among practitioners and scholars, and among parents and teachers on the idea that children's issues are not adequately treated by the media and TIC, whether as actors or as recipients of information, programming and advertising.

This extraordinary development that the media and TIC have had in recent years, is creating real social change: the digital media have become first class agents of socialization, sometimes moving traditional socializing agents into second place such as family and school. These new habits are impacting significantly on the concept of leisure experiences and on how we relate to one another.

The Plataforma de Infancia is concerned that the high consumption of television, video games, Internet and advertising of children in Spain has not been accompanied by adequate protection of their rights.

According to data recorded by the National Institute of Statistics (Instituto Nacional de Estadística, INE, 2008) and the Statistical Office of the European Communities (Eurostat), Spain ranks fourth in the European countries with highest number of Internet users. The percentage of children (10 to 15 years) that accesses information technology is generally very high. Thus, the use of computers among children is almost universal (94,1%) while 82,2% uses the Internet. Social networks have also experienced a spectacular rise since its recent birth. 1 in 3 young people in Spain use Facebook, Tuenti, Fotolog or Twitter. The 36,5% of social network users, according to the National Institute of Communication Technologies (Instituto Nacional de Tecnologías de la Comunicación, INTECO, 2009: 56), are young people between 15 and 24.

As a counterpart, Public Administration, specifically the police, have taken steps, still insufficient, to detect crime and to close websites whose content is highly harmful to children. This intervention has led to the dismantling of numerous bands of pedophiles and child abusers and closed web pages, contributing to the organization of more specialized security corps of the Internet. In spite of that, these measures have not been taken together with preventive proposals to avoid that this kind of situations take place again.



Television offers a perhaps bleak panorama. Spain is among the few countries in the European Union (EU) which do not yet have a State Council for Audiovisual issues, that should be an independent regulator, and has been requested for several years to the Spanish government by different groups (NGO, ombudspersons, parliamentary groups, among others) dedicated to control the content broadcasted by all television channels.

Despite the impending definitive switch-off of analog television, which will make way for a digital terrestrial television (television digital terrestre, TDT), with broader, interactive and more commercial content, it has only been launched the Joint Monitoring Commission for Self-regulation Code on TV Content and Children (Comisión Mixta de Seguimiento del Código de Autorregulación sobre Contenidos de TV e Infancia). After 4 years of operation, even as the Plataforma de Infancia takes part, it can be seen the failure of a self-regulatory system by television programmers, when it comes to ensuring the protection of children about inappropriate content broadcast at times of greatest children's consumption.

Since 2005, the central government has been promising the creation of a State Council of Audiovisual Media (Consejo Estatal de Medios Audiovisuales, CEMA), but it was only in July 2009 when the Council of Ministers approved the draft of a General Audiovisual Law, currently before parliament, which includes the creation of the CEMA.

TV programmers, both public and private, continue today to present a grid of programs for children especially at times of a high rate of infant and child viewers with unfortunate content offerings, in many cases harmful to their development, coinciding with the hours of supposed maximum protection.

On the other hand, video games occupy 40% of total audiovisual entertainment consumption in Spain (overtaking the box office, recorded music and video films). Data from the Spanish Association of Distributors and Publishers of Entertainment Software (Asociación Española de Distribuidores y Editores de Software de Entretenimiento, ADESE, 2006), indicate that the greatest percentage of consumers of video games is among adolescents and adults. It perceives a stronger presence than in previous years among youths aged 11 to 14 years.

Amnesty International has published since 1999 reporting on video games and their impact on children, and its content indicating the lack of specific legislation to ensure control in the access of children to games with harmful content throughout Spanish territory. Taking the example of their last report (Amnesty International, 2007) has found that children in some cases only 9 years old and unaccompanied by an adult, have been able to easily purchase video games rated for adults, both in supermarkets and in specialty stores.

With regard to advertising, there is limited regulation of content involving children and that is emitted in a wide variety of formats (visual, oral, print, digital, etc.). The advertising account executives agree in pointing out, that they target youth as the most promising for brands currently consolidated. However their public is not only vulnerable, but receptive to sensitive irrational messages, that easily develop mechanisms to identify with brands (the phenomenon known as branding), which leads to an increasing reliance on them in terms of consumption and lifestyles (Méndiz, 2005: 105).

## OBSTACLES

*Found in the carrying out of obligations  
required by the CRC*

The lack of sufficient commitment by the Spanish Government to the design of policies dedicated to the protection and child participation in media and TIC is one of the main obstacles perceived in different areas of analysis. In some cases there is legislation that is not met, and in others, not even a legislative framework designed to promote both the protection and participation of children. Boys and girls are still subject to manipulation of the media and companies looking to profit from their image to sell their products or messages.

The diversity among the Autonomous Communities (Comunidades Autónomas, CCAA) hinders the uniformity of enforcement, inequality in the joint funding and joint initiatives. To cite, one example, there are Autonomous Audiovisual Councils only in Andalucía, Cataluña and Navarra, who do not share the same structure or operations, in addition to not supporting or having ties with the national administration. In this regard it is noted that far from replicating the positive experience of having more Autonomous Audiovisual Councils in order to keep track of the content broadcasted by television channels, in 2005, Madrid eliminated its own Audiovisual Council.

Telecommunications companies, digital and advertising have been adopting various measures of self-regulation in recent years. Related to advertising are regulated by the Association for the Self-Regulation of Commercial Communication (Asociación para la Autorregulación de la Comunicación Comercial, AUTOCONTROL, 1995); Internet by Trust on Line (Confianza on Line, 2002); the video game industry by PEGI Code (Código PEGI, 2003), only having to do with the age rating; and television broadcasters through the Joint Monitoring Commission for Self-regulation Code on TV Content and Children (Comisión Mixta de Seguimiento del Código de Autorregulación sobre Contenidos de TV e Infancia, 2004).

Therefore, it seems clear that explicit monitoring of these standards by the media and TIC should promote a system of control and guarantee effective and efficient enough to protect children, and in case of default, to rise to an appropriate response.

In most cases, child protection has shifted, unfortunately, the will of big business whose only new entry in recent years has been to reduce everything to a simple complaints system on-line which is not publicized to the general public; these on-line forms can be used to advise limiting access to adult environments; and the development of guides for parents and children safe access to the network. Clearly, this information is systematically ignored regarding regulated issues, and even those issues that have been self-regulated.

In this sense, there is a lack of funding that would ensure the monitoring of the content broadcast by the media and TIC as well as the production of educational content through the same channels for both public and private entities.

Similarly, one notes the absence in the national legislative framework of any regulation that establishes the protection of children and adolescents over access to video games rated for adults or with content that can be harmful to their proper development. To cite one example, Spain has not specifically criminalized in the Criminal Code (Código Penal, CP) advocacy of minors in different media or digital media. That is, while yes they are erotic stories, it is not the broadcast network's animated child pornography.

The actual child participation in media and TIC is virtually nonexistent. It takes into account children only as potential public, customer or passive consumer, or even as an object to be advertised, but not a bearer of rights. In general, they do not participate neither in the development or design of programs, or in the development of programming. It is not clear children's preference for programming or what kind of programs they prefer, etc.



#### How embarrassing...

The TV media is the most valued by boys and girls as a source of information. However, when asked about the possibilities of expressing their opinion in this environment, a majority believes that opportunities to express themselves are limited.

## RECOMMENDATIONS



#### Speaking out loud...

"I prefer to express myself with Internet because in other media one can not say anything, or you have to pay to do it."

- ▶ The Spanish government, regional administrations and local governments should increase funding and make it sustainable for building projects and research on children's video games, digital and audiovisual productions. These initiatives should be coordinated with various government administrations and other related organizations (public and private).
- ▶ Many of the desirable measures need a real and comprehensive implementation of legislation. That is, not so much the absence of a legal or self-regulation model (except for some cases, such as the Internet or video games), but to adapt what already exists and where necessary, basically, to achieve its actual implementation.
- ▶ Articulate a new approach to business that create digital and audiovisual content, taking into consideration the incorporation of positive behavioural patterns, avoiding violence, sexist, xenophobic or consumer actions.
- ▶ Promote the educational nature of media and TIC, enhancing the critical capacity and imagination of childhood and adolescence, in a climate of support for the education system (including families) on the critical analysis of content and that transmit values through different formats.
- ▶ Public television must take the initiative and provide leadership for the creation of a responsible alternative to the rights of children from the poor grid of content offered by the programs broadcasted at times of child protection. This requires definitely leaving the race to capture the audience and economic and recover qualitative criteria to truly become a public service. Therefore introduce a model for children and youth programming, which could spread to other televisions.
- ▶ Conduct research to learn what they think both boys and girls about what they "see" (broadly: TV, video games, Internet, etc.). And what they would like and what they think their fathers,

mothers, educators and other professionals working with children and youth about what they see and what would be appropriate.

- ▶ Organize opportunities for professionals dedicated to children to discuss with those professionals responsible for communication, media and TIC, in order to influence the improvement of content delivered by the print, audiovisual and digital coverage to promote information about children that is objective, analytical and responsible on the situation of children in Spain and elsewhere.
- ▶ Promote within communication companies the creation of the Advisor for children's issues and rights serving as a reference and consultant on any policy issue or related company issue that affects boys and girls, as well as to evaluate the implementation of the measures included in the internal codes as well as respect for the principles and provisions of the CRC.
- ▶ Parents, teachers and other education professionals have the responsibility to guide, educate and agree with the children responsible use of Internet: setting times of use, pages that should not be visited or information not be provided in messages and to protect them from dangerous situations, among other issues. All educational actors should also be trained in the use of the Internet and should be cognizant of its contents.
- ▶ Establish between companies and producers committed to investing in quality children's programming, just as there is a fee required to dedicate 5% of television revenues to Spanish cinema.
- ▶ Implement social GRPs (Gross Rating Points, unit of measure used to count the number of impacts of advertising), as in advertising, but social, through grant mechanisms by public authorities or other private entities.
- ▶ Promote the involvement of groups of child participation in media newscasts and TIC in order to raise its voice on matters that affect them.
- ▶ Develop protocols for working or style manuals on children aimed at media professionals to improve the coverage of information released by the media, advertising and TIC in childhood and adolescence.
- ▶ Mobilize the whole society through awareness campaigns to bring visibility to the real issues affecting children.
- ▶ Establish quality standards, similar to the European industrial standard ISO 9000, reporting these quality standards through consumer associations and public administrations. In this sense, give a stamp of quality that offers guarantees to the viewer into the highly successful series in prime time that meet certain criteria for compliance with the child audience, as a child rights approach and educational initiatives, among others.
- ▶ Organize national and regional awards for professionals in the media whose work is dedicated to children (animated series, news, games, advertising, etc.) that stand out for their quality and usefulness.
- ▶ Just as the figures are being strengthened for Ombudsperson for TV viewers and readers, the creation of the Ombudsperson for Children in the media, advertising and TIC would be very valuable.

## III. Family environment and alternative care

### Family environment and alternative care

#### MEASURES

*Adopted as a response to the last observations  
made by the Committee on the Rights of the Child*

Regarding family environment and alternative care issues, the Committee raised the following questions:

- ▶ Harmonization of the different children's protection procedures defined in each Autonomous Community (Comunidad Autónoma, CA): this harmonization has not been implemented so far. Each Community has its own rules based on the Organic Law (Ley Orgánica, LO) 1/1996, dated January 15, about the judicial protection of the minor, and on partial modification of the Civil Code (Código Civil, CC) and Civil Procedure Law (Ley de Enjuiciamiento Civil, LEC).
- ▶ Family Courts need a stronger provision of resources: it is evident there are insufficient amounts of resources directed to Family Courts, especially their psycho-social teams, which their heavy workloads have a negative impact on their work quality and efficiency. Moreover, there is not a family court in each Spanish county (judicial body). Families and children of these counties with no family courts feel therefore discriminated, because they are forced to go to non-specialized trial courts. Courts for violence against women are also frequently collapsed due to the growing proliferation of cases of violence against women and matrimonial proceedings affecting victims of domestic violence. Last but not least, justice moves slowly.

#### CHANGES

*Both positive and negative that have taken place since the last report  
New areas of concern*

Let us highlight, on one hand, the following positive changes:

- ▶ Regarding the protection plan on children and adolescents, the National Strategic Plan for Childhood and Adolescence 2006-2009 (Plan Estratégico Nacional de Infancia y Adolescencia, PENIA) clearly bets on family instead of residential solutions.
- ▶ Likewise, the above mentioned PENIA sixth strategic objective refers to the need to "promote the attention and social intervention of children and adolescents in situation of risk, lack of protection, disability and/or social exclusion. Shared quality criteria and evaluation practices are also to be established".
- ▶ Approval of legislation regarding a better balanced private and working life, increased paternity leaves, and approval of the "Plan Concilia" specifically addressed to civil workers.

- ▶ Legal improvements to equally acknowledge the different familiar models existing in current Spanish society. Further social sensitivity actions are needed to secure its true recognition.
- ▶ Law 54/2007 approval, dated December 28, on international adoption.

On the other hand, these are the new scopes of concern:

- ▶ The main negative concern is the current scenario of economic crisis, which might imply strong reductions of resources allocated to general social policies, and specifically childhood policies.
- ▶ As already mentioned, there have been some improvements regarding a more balanced private and working life. However, these efforts are still limited if they want to have a real and widespread impact on our citizenship. Moreover, there are still different approaches to conciliation throughout the Spanish territory.
- ▶ Minors under administrative guardianship do not always receive proper attention by those responsible in the Office of the Public Prosecutor for Children. In a parallel way, protection centers are poorly evaluated by their local authorities.
- ▶ Regarding educators of these before mentioned protection centers, minimum criteria to define the right qualifications for their job descriptions need still to be defined. There are huge differences between teams. Protection centers' internal rules are not always well defined and adequately adapted to children's language.
- ▶ Separation of siblings: siblings offer each other support, shelter, emotional security, a sense of belonging, company and help. Fraternal ties are essential for their personal development.
- ▶ Adoption or temporary foster care processes should always focus on the child's best interest.
- ▶ It is interesting to note the presence of more boys than girls taking part of this protection system.
- ▶ There are clearly insufficient resources allocated to children and adolescents with special needs or mental health problems. Those with a psycho-pathological diagnosis are very difficult cases due to poor work and coordination practices when dealing with mental health, as well as others involved social and educational services.
- ▶ Law 5/2005, dated July 8, that modifies the CC and LEC with regard to separation and divorce, establishes in its third final provision that the Government will send to the Parliament a bill of law on mediation, generally based on the principles established by European Union (EU) regulations, and more specifically on willingness, impartiality, neutrality, confidentiality principles, including respect for mediation services created by Autonomous Communities (Comunidades Autónomas, CCAA). However, it is not yet a reality. Nevertheless, the Justice Commission of the Chamber of Deputies passed on February 2009 an early day motion that urges the Government to send a law bill on mediation to the Chamber of Deputies during 2009. It is inappropriate the lack of common minimum rules, if more than half of Spanish CCAA already have local laws regulating this figure.



- ▶ There are still differences between CCAA regarding the proper running of family meeting points (Puntos de Encuentro Familiar, PEF) resources; even though on November 2008 a “minimum framework document” was approved to guarantee the quality of these family meeting points, by agreement of the Inter-autonomous Commission of Child and Family General Directors.

## OBSTACLES

### *Found in the carrying out of obligations required by the CRC*

- ▶ CCAA have different child protection proceedings.
- ▶ The Central Government seems to be interested in promoting a high number of social initiatives, but currently a general systematized evaluation does not exist.
- ▶ Slow, bureaucratic administrative and legal processes lead not only to unprotected children and adolescents, but also mistreats foster care and families of origin.
- ▶ A very bureaucratic decision-taking process, together with scarce resources and aid, leads to the currently limited number of family shelters. Children and adolescents are confined during long periods of time in residences, which lead to waiting lists. Generally speaking, the process of attention, support and follow-up to these children (prior to their admission) takes around five years. In the same way, once they join this protection system, they tend to spend approximately another five years in their guest houses.
- ▶ Urban children tend to receive more opportunities, programs and resources than rural children.
- ▶ There is a lack of supportive programs for children-at-risk. Sometimes the lack of institutional resources (in some regions) to implement proper child protection actions could be even described as an institutional mistreatment. Families-at-risk prevention programs generally, do not fulfill social needs, and therefore should be strengthened.

## RECOMMENDATIONS



### Speaking out loud...

“All children should grow up and live within a family, enjoy their affection and support, and feel protected by those who love us and care for us, whether they are our own parents or not”.

- ▶ Establish quality and good practice standards, according to the Convention on the Rights of the Child (CRC) proceedings for entities within the protection system.
- ▶ It should be a priority to reinforce the services that support families including those that intervene, treat and accompany, having in mind the differences that exist between CCAA.
- ▶ Identify and assign sufficient resources for actions within the protection sphere, and promote a wider use of evaluation tools.
- ▶ Harmonization of the different procedures related to the protection of minors among the different CCAA, in order to assure an agreement on minimum levels of intervention.
- ▶ Adequate legal and administrative timings to specific requirements of protection.
- ▶ Children and adolescents care proposals should follow a family model, and guarantee the child's right to be raised in a family.
- ▶ Reinforce and promote family foster care.
- ▶ Promote measures to increase awareness of international adoptions, given the lack of knowledge in society in general.
- ▶ Regulate the family mediation figure by means of a national law. This law should harmonize regional rules and assure the fulfillment of its common minimum criteria at the already existing autonomous level. The future autonomous law should also adapt to this new national law. Any written proposals about family mediation centers' financing and acting procedures should be supervised by legal, social and psychological teams, taking into account their important responsibilities.
- ▶ A supervision procedure should be articulated in order to guarantee a standardized model of common minimum rules to all CCAA, a participative model that explains PEF organization and running, as mentioned in the report presented by the Inter-autonomous Commission of Child and Family General Directors.
- ▶ Legally speaking, all counties should have family courts, as they do have courts for violence against women. Each court should also count with more means, especially psycho-social teams. Psycho-social reports play a very important role in this type of proceedings.
- ▶ Parents and tutors are vulnerable and should be provided with free legal assistance during their child abandonment administrative processes, in order to avoid their defenseless situation, as declared in article (art.) 24 of the Spanish Constitution (Constitución Española, CE).

- ▶ The Office of the public prosecutor for children should strengthen its surveillance and superior control of children under administrative guardianship. Local authorities should also reinforce the surveillance of protection centers, require the managers periodic follow-up reports of all admitted children, and implement more frequent and detailed inspections.
- ▶ Educators of these before mentioned centers play a key role in the personal development of children. Local authorities must guarantee that these workers can prove their qualifications and receive periodic training. Internal rules of these centers should be sufficiently developed and contain adequate and easy to understand terms.
- ▶ All protection centers must guarantee the same attention standards, whether they are private, state-subsidized, contracted or public.
- ▶ Promote the participation of children, adolescents, biological families (in such cases), those responsible for their care and competent authorities in the evaluation of programs and entities that provide childhood and adolescence alternative care.
- ▶ Promotion of the guidelines on alternative care for children, taken by the United Nations in November 2009.
- ▶ Bear in mind all comments included in the Ombudspersons' report (2009) regarding "Protection centers for minors with behavioral disorders and in social difficulties" ("Centros de protección de menores con trastornos de conducta y en situación de dificultad social"), and have sufficient specialized resources for these children and adolescents.



**To jot down...**

Most children agree that adoption and foster care are positive protection means for both children and families. A few of them, however, ask to consider the child's feelings, needs and preferences, the type of shelter family and the situation of the original family.

## Unaccompanied foreign minors. Special reference to article 22

### MEASURES

*Adopted as a response to the last observations  
made by the Committee on the Rights of the Child*

These are general measures taken since the last observations of the Committee referring to Spain and the following legislative changes:

- ▶ Regulation of the Organic Law (Ley Orgánica, LO) 4/2000 (Royal Decree, Real Decreto, RD, 2393/2004 of 30 December), which approves the Regulations for Implementation of the Aliens Act (Reglamento de Ejecución de la Ley de Extranjería). It provides in article (art.) 111 creating a register of unaccompanied foreign minors (menores extranjeros no acompañados, MENAS) in the Directorate General of Police (Dirección General de la Policía).
- ▶ Protocol of unaccompanied foreign minors by the Childhood Observatory, 14 November 2005, and subsequent developments at regional level.
- ▶ The Office of the General Public Prosecutor approved the Instruction 3/2003 “Merits of the return of alien minors who attempt to enter Spain illegally and who do not attend the legal situation of helplessness” (Sobre la procedencia del retorno de extranjeros menores de edad que pretendan entrar ilegalmente en España y en quienes no concurra la situación jurídica de desamparo), repealed by Instruction 6/2004, of November 26 “On legal treatment of unaccompanied foreign minors immigrants” (Sobre tratamiento jurídico de los menores extranjeros inmigrantes no acompañados). Also approved on 27 July 2006 Circular 2/2006 “On various aspects of the regime of foreigners in Spain” (Sobre diversos aspectos relativos al régimen de los extranjeros en España).
- ▶ Agreement Memorandum between the Kingdom of Morocco and the Kingdom of Spain on assisted repatriation of unaccompanied minors (Memorandum de entendimiento entre el Reino de Marruecos y el Reino de España sobre repatriación asistida de menores no acompañados), of 23 December 2003, which allows the repatriation of unaccompanied Moroccan children who are in Spain in protection systems.
- ▶ Bilateral readmission agreements with Senegal, Morocco and Romania.
- ▶ Implementation of an Intelligent Monitoring System in the Strait (of Gibraltar) (Sistema Inteligente de Vigilancia en el Estrecho, SIVE) by the Civil Guard along the coast of Cadiz. As a result, the itineraries of the boats have been modified, making crossings riskier.

In relation to asylum seekers and refugees, the Law 12/2009 of 30 October, has passed, regulating the right to asylum and subsidiary protection. Under it, the international protection is constituted by the right of asylum and subsidiary protection.

About the MENAS abuse by police during the forced, involuntary repatriations conducted to send them back to their home country without access to legal counsel, regardless of the legal representative tutor,

or interpreter services, although the number of returns has dropped (from 111 in 2006 to 24 in 2007), they have been denounced by various institutions (Ombudsperson, the General Council of Bars and Law Societies of Spain -Consejo General de la Abogacía Española, CGAE-, Office of the General Public Prosecutor for Immigration, judgments of various High Courts -Tribunales Superiores de Justicia -TSJ) by carried out without taking into account the rights of children, especially their right to be heard, and without the necessary guarantees (entries in the centers at dawn, not allowing them to take their belongings, wives or move them with physical restraints during the flights).

It is also worrying that, by virtue of agreements signed with other countries and official procedures, Spain repatriated unaccompanied Moroccan children by entrusting them to the border authorities in Morocco, not social welfare agencies, regardless of which, on several occasions have been victims of repeated abuse and arrests by security forces and border authorities in Morocco. They also face the risk of arrest on the basis of art. 50 of the Act Moroccan Immigration and Emigration, Act No. 02-03 (Acta Marroquí de Inmigración y Emigración, Ley nº 02-03), which punishes “illegal emigration” from Morocco to a fine and/or imprisonment of up to six months.

It is also alarming, according to comments made by the Committee, which, despite the inclusion of safeguards in the Regulations of LO 4/2000, Spain has made returns without making a determination of their best interest or to verify that the child is to be successfully reintegrated into their families or fostered by social welfare agencies in their countries of origin, as has been shown by these institutions and judgments; they considered returning records lacked the essential elements to secure their rights.

In connection with the failure to grant the MENAS temporary residence permits, to which they are entitled by law, recommended that Spain adopt the necessary measures to ensure the implementation of LO 4/2000, providing a temporary residence permit, even when this law considers the residence of any child protected by Civil Service as “fair for all purposes, regardless of the timely processing of residence permit”. In practice there is a worrying increase in MENAS, that because of the dysfunction and inefficiency of administrative action, are not provided with the authorization of residence to which they are entitled. Thus, upon completion of the majority of age, they are in an irregular situation without legal documentation that legitimizes their stay in Spain. In the 2007 Annual Report of the Ombudsperson (2008) were highlighted several deficiencies on this issue, such as extreme slowness in the processing of authorizations by the delegations of government in Melilla and Madrid. Another example is the practice of the institution to withdraw melillense protection granted to boys and girls when they reach adulthood, thus being totally undocumented. On the other hand, art. 35.4 of LO 4/2000 states that it has to roll back the validity of the residence at the time when the girl or the boy was turned over to protective services. There has been no compliance with that provision in any of the decisions that the Ombudsperson has released during 2007.

## CHANGES

*Both positive and negative that have taken place since the last report  
New areas of concern*

There have been some elements that can facilitate the social integration of the MENAS, and particularly children seeking international protection, such as:

- The declining number of returns made, although the number of files open for expulsion has not changed, which maintains the threat of expulsion and fear of the system.

- ▶ The Ombudspersons and Ombudspersons for children that exist in the country, including those in the Autonomous Regions in various reports have highlighted weaknesses in the system of protection for the MENAS, which involved the addition of some improvements in procedures, especially in the reduction of barriers to regularization.
- ▶ The inclusion of judgments by the Constitutional Court (Tribunal Constitucional, TC) that recognize fundamental rights of migrants, some of which affect children in a situation of legal irregularity, such as assembly and membership in a trade union.
- ▶ Some Autonomous Communities (Comunidades Autónomas, CCAA) (ie; Madrid) have used age testing techniques like x-rays of the wrist, as well as the examination of sexual characters and dentition.
- ▶ There has been an effort by the Spanish authorities to carry out a quick resolution of the international protection claims of children, thus avoiding their come of age during the procedure.
- ▶ The effort of Spanish Cooperation to work in the places of origin.

Moreover, new situations that may pose a risk to the full exercise of the rights of MENAS:

- ▶ Approval of LO 2/2009 of 11 December, on reforming the LO 4/2000 of 11 January, on the rights and freedoms of foreigners in Spain and their social integration, in particular, art. 35 related to “Unaccompanied Minors”. Under that wording the following should be noted:
  - The MENAS are embedded in the immigration policy that works to prevent irregular immigration, so that the grounds of the articles are based on what they have in mind clearly as a foreigner at the expense of their status as minor.
  - The policy encourages agreements limiting good practices within the country. The wording of paragraphs 1 and 2 of art. 35 is also confusing due to references to both establish possible agreements between the Government and the countries of origin, as well as the different CCAA and others, being only a unique responsibility of the State government as established in the art. 149.3 of the Spanish Constitution (Constitución Española, CE).
  - It is left to the hands of the Public Prosecutor to determine the age, so healthcare institutions from each autonomous regions’ administration are to collaborate with the kind of evidence they consider “necessary”, the last concept is clearly indeterminate.
  - There is not a clear need to prioritize in the case of repatriation to home country in favor of family reunification or to the corresponding protection services in the country of origin.
  - It is left to the discretion of the Administration to grant the minor a residence permit, depending on the speed or not that one is able to prove the impossibility of return to his family and country of origin. Neither is a time frame established to grant such authorization, which creates legal uncertainty and leaves the foreign children without the possibility of exercising their fundamental rights as minors in Spanish territory. The residency permit is also a key element for social integration.
  - Paragraph 9 of the regulation leaves the determination of conditions to be fulfilled by children with a residence permit when they reach adulthood, to renew this authorization or access a work and residency permit. This assumption is discriminatory to the extent that it is expressly granted such authorization of residency and work to foreign children in the family reunification procedure. Besides the above, for the renewal of such authorizations it is set to take into account the positive reports that these effects occur both potestative competent public entities, which involve the issues of discretion and arbitrariness.

- Finally, paragraph 11 recognizes the possibility that the State Administration and the CCAA establish agreements with NGO, foundations and organizations dedicated to the protection of minors, in order to attribute ordinary guardianship of MENAS. By contrast, under the First Additional Provision of the Civil Procedure Law (Ley de Enjuiciamiento Civil, LEC) provides that the CCAA under its jurisdiction in child protection, may empower those organizations or foundations whose statutes or rules listed, are designed to protect minors and provided them with the material resources and multidisciplinary teams necessary for the development of the functions. These collaborating institutions will intervene only in function of guardians and always subject to the guidelines, inspections and monitoring that enable the authorities. Therefore, the administration exceeds its ordinary guardianship delegating functions to private entities, and provides for an opportunity that does not exist with respect to other minors.
- As Romania and Bulgaria have joined the European Union (EU), the children of those nationalities who were at risk are no longer considered MENAS and therefore excluded from the intervention projects that they benefited from before (ie; NGO projects funded by the Ministry now called of Health and Social Policy -Ministerio de Sanidad y Política Social, MSPS-). Moreover, the fact that Public Administrations (Administraciones Públicas, AAPP) in their countries of origin do not always meet their obligations, hinders its development, particularly in cases of abandoned babies. Consideration as European citizens will be advantageous as long as they ensure their protection.
- Regarding bilateral readmission agreements signed with Senegal, Morocco and Romania, procedures lack the necessary safeguards and transparency. Examples include the following: lack of guidelines for determining the best interest of children; no pronouncement on the fundamental guarantees, including the right to legal representation, the right to be heard or the procedure for placement of the child in the country of origin; no mention of the need to conduct a preliminary analysis of the status of the boy or girl before contact with the country of origin; different timelines for establishing contact with the authorities of the country (Morocco sets a month, with Senegal ten days and with Romania “as soon as possible”) and therefore not given sufficient time to formally identify their best interest nor to assess whether they might be seeking international protection and thereby take the best decision possible.
- The competent authorities in child protection is often limited to carry out a compilation of data on the child without inquiring into the substantive issues (Human Rights Watch, 2007: 57) that led to the departure of his country origin.
- There has been a serious difficulty by the Spanish authorities in applying the definition of “refugee” to those claims based on persecution by reason of having been trafficked (Association for the prevention, rehabilitation and care of women prostituted, Asociación para la prevención, reinserción y atención de la mujer prostituida, APRAMP, 2008: 67-71).



## OBSTACLES

### *Found in the carrying out of obligations required by the CRC*

There is no uniform procedure for determining the “best interest” of the child (Committee on the Rights of the Child, 2005: 9-10 and United Nations High Commissioner for Refugees -UNHCR-, 2008) that ensures a particular interpretation of this principle in each case. Each Autonomous Community (Comunidad Autónoma, CA) is mandated to establish and develop its own procedural and regulatory framework, which in practice results in differential treatment depending on the part of the territory in which the case of the child is initiated.

As for the age determination are the following problems. First, they are conducted according to different methods with different ranges, even in the same city, as well as being inadequate. In particular, the main test used (Study of Greulich and Pyle) involves a comparison between the measurement of a bone in the wrist of the child with outdated standards and measures male Caucasians, regardless of age, nutritional habits and other important factors that, in fact, influence the physical and psychological development of each individual considerations such as ethnic/cultural, psychological and environmental (Save the Children, UNHCR, 2004: 17). Generally these tests do not give the child the benefit of the doubt. The Office of the Public Prosecutor, which according to the law should determine the age, is not always aware of the practice or the results thereof. Moreover, the interpretation of the evidence that the Ministry should do is sometimes uneven. Therefore, it is also striking the fact that sometimes it is not considered valid identification documentation certifying that they are minors and those favouring the results of proof of age.

To address this uncertainty, the General Public Prosecutor urged the Consultation 1/2009, on certain issues relating to cases of determining the age of unaccompanied foreign minors of 10 November 2009. However, the Government recently acknowledged their willingness to urge the General Public Prosecutor to issue new instructions, which accounts for homogeneous and unique criteria for age determination for all prosecutors. On their behalf, the Basque Parliamentary Group (PNV-EAJ) presented in February a motion relating to such issues, about the seemingly outrageous percentage of false assumption minors housed and protected by the autonomous regions, and the equally illegal actions diametrically opposite. In particular, urges the Government to refer to the General Public Prosecutor, through the Ministry of Justice, the need to generalize, in collaboration with the CCAA, the adoption of protocols for actions in relation to MENAS in order to homogenize the application of art. 35 of the LO, in particular, reliably determining the age of these children. For the latter question proposes to establish, in collaboration with the CCAA, a uniform protocol for the test that determines age of the children at the Institutes of Legal Medicine.

Throughout this process the children should not remain in police custody apart from the hours required to carry out the identification and record their arrival and the date thereof. However, there are established deadlines. Any stay exceeding 72 hours in police custody or under police control constitute an illegal detention under art. 17 of the Spanish Constitution (Constitución Española, CE) and art. 37. b) of the Convention.

Also there are differences in the declaration of abandonment and the assumption of guardianship by each CA, using a variety of administrative figures do not ensure adequate protection of the MENAS.

For regularization, the most common practice is to wait for the expiration of 9 months just as the regulations of the law to grant a residency permit (art. 92.5) to begin the process, leaving many children in an irregular situation upon expiration and prevents the administration from doing appropriate and

inclusive educational work during their stay in protective services.

As noted by the Ombudsperson (2005), the fact that MENAS are under State supervision can not be a reason not to have access to independent legal protection services. This may hinder the knowledge on the behalf of children's rights in Spain and their effective defense, which in some cases there is a conflict of interest with the administration calling for family reunification in the country of origin, as has been recognized by various court rulings. The independent legal assistance is needed to ensure the best interest of the child in all decision-making process, especially during particularly relevant administrative procedures. It should also ensure, depending on the age, the participation of these girls and boys in decisions made about their future.

One of the rights that children found in Spanish territory must be reported is on the right to seek international protection. Many come from countries in conflict, being some of them child soldiers. The lack of knowledge about the figure of the asylum among staff working daily with MENAS, coupled with ignorance of their children about the institutions and the rights that would protect them, generally difficult the process of correctly identifying children in need of international protection, which largely explains the low number of asylum applications from boys and girls in Spain and barriers to access this right (International Committee of the Red Cross -ICRC-, International Rescue Committee -IRC-, Save the Children United Kingdom -SCUK-, United Nations Children's Fund -UNICEF-, United Nations High Commissioner for Refugees -UNHCR-, World Vision International -WVI-, 2004: 18).

The belief of some authorities in relation to the inadequate protection afforded by the legislation on immigration in Spain for MENAS (as set out in the III and IV Report on the implementation of the Convention on the Rights of the Child -CRC- in Spain, January 2008, paragraph V, D, p. 104) to argue the non-application of the Geneva Convention of 1951 in cases of potential child refugees, is in practice, a barrier to access international protection.

The lack of enforcement of special safeguards in the asylum procedure in cases of child applicants, such as the need to conduct interviews appropriate to their young age, with special attention to their vulnerability, by trained personnel, or that the case study is carried out by personnel with knowledge of their special needs, is an obstacle to the adequate consideration of their protection.

The difficulties in passing the MENAS protection services are aggravated by reaching majority age. No consolidated programs to help transition to adult life, being in extreme vulnerability at the end of the protocol.

## RECOMMENDATIONS



### Speaking out loud...

“Unaccompanied alien children need everyone to help them integrate.”

- ▶ Guarantee in first instance, once identified as unaccompanied foreign minors, that an individual analysis with the personal circumstances of each child is made, determining in this analysis the best interest of the child in order to take the most adequate measures for their situation.
- ▶ Ensure proper territorial coordination (national, regional and local) and sectoral (State Security Forces), prosecutors, immigration, security, health and education).
- ▶ Establish common criteria and procedures, transparent and public protection services to prevent arbitrariness, delays in procedures and disparate treatment, indicating deadlines and specific procedures in the processing of documentation and in status regulating.
- ▶ The documents to develop bilateral readmission agreements should incorporate all necessary measures and safeguards and the procedures to carry out independent monitoring of the data and the publication of periodic reports.
- ▶ Ensure decision-making processes that are participatory, transparent and consensuated; providing space for expression and dialogue, and ensuring that the views of the child are taken into account at all times.
- ▶ Establish protocols for information at the time of detention targeting MENAS to notify them about their rights in the country. Thus, the Police should inform the Bar about the place of entry into the country the timely completion of the interview process for them for their initial identification.
- ▶ Developing a common practice nationally for age determination, to consider in addition to the current issues of racial, cultural, specific illness, nutritional, hygiene and health, physical activity factors and the degree of maturity of the minor.
- ▶ Ensuring the right to independent counsel of protective services for children, as established by the judgments of the TC.
- ▶ Enabling children with special needs to receive appropriate care consistent with their individual characteristics, promoting a network of resources to respond to these needs (disabilities, substance abuse, language difficulties, etc.)
- ▶ Elaborate a protocol for repatriation in order to reunite the child with family, with the objective of unifying practice throughout the nation in order to guarantee a national and international minimum, especially:
  - That any decision taken responds to the best interest of the child (individual analysis on a case-by-case basis of the socio-familiar situation in the country of origin).
  - Take into consideration the opinion of the child and that of their family.
  - Guarantee the right to a judicial tutelage through the mediation of an independent legal representative at all times.

- That all rights are guaranteed while executing the order for repatriation.
- ▶ Establishment of concrete measures to guarantee the right of international protection of MENAS:
  - Adoption of common guidelines at a national level for the uniform protection of all foreign children who are in Spain by correctly determining the best interest of the child (UNHCR, 2008).
  - Conducting asylum interviews for persons under age by qualified personnel in accordance with the recommendations of the UNHCR (EU Council, 2005), along with the study and preparation of the decision of the determining authority of requests by staff knowledge about their special protection needs (EU Council, 2005).
  - In the asylum applications based on grounds of illegal traffic of persons, implementation by the Spanish authorities of the major international instruments adopted (UNHCR, 2006)
  - Basic training on immigration and asylum for staff working daily with MENAS.
- ▶ Signing and ratification of the Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.
- ▶ Create or improve procedures to ensure health care for the cases of tropical diseases and their derived special peculiarities.
- ▶ Gather data about MENAS (including international protection seekers) in a systematic registry that allows us to know about their situation, as described in legislation.



**To jot down...**

Children and adolescents believe that foreign children should be welcomed both in schools and in neighbourhoods and receive equal treatment, showing a even greater concern for those unaccompanied by their families.

## Violence.

### Special reference to articles 34, 35 and 36

#### MEASURES

*Adopted as a response to the last observations  
made by the Committee on the Rights of the Child*

- ▶ Regarding the revision of article (art.) 154 of the Civil Code (Código Civil, CC), which stated that parents “may reasonably and moderately correct their children,” it has been made through the first final provision included in the Law 54/2007 of 28 December, on international adoption.
- ▶ As for the momentum of public awareness and promotion of alternative forms of family discipline, fostering an attitude of change, advances are identified, as social awareness is concerned, although, it is pointed out in the III and IV Report on the implementation of the Convention on the Rights of the Child (CRC) in Spain, that corporal punishment has not been totally banished in homes as a form of family discipline among the measures that parents feel they can use, however sparingly. In any case, it is worth highlighting the campaign “Correcting is not hitting” (Corregir no es pegar) and the launching of “parents’ schools”.
- ▶ About studies on violence in different settings and the implementation of a statistical system created to keep a record of incidents and assess the scope and proposals of these practices, in 2006 a completed study titled “Maintenance, renovation and operation of a National Registry of Child Mistreatment in Spain” (“Mantenimiento, actualización y explotación del Registro Único de Maltrato Infantil -RUMI- en España”) was finalized. In parallel, a software tool was configured to support the databases of records of child abuse cases in the Autonomous Communities (CCAA), and so as to obtain a basic data at a national level that could be collected in the Statistical Bulletin on the Actions to Protect Children (Boletín Estadístico de Medidas de Protección a la Infancia).
- ▶ About the practice of female genital mutilation, there is no evidence of this practice in the population residing in Spain.
- ▶ Finally, with regard to sexual exploitation, and in particular the launching of the National Action Plan against Commercial Sexual Exploitation of Children and Adolescents (Plan Nacional de Acción contra la Explotación Sexual Comercial de la Infancia y Adolescencia), during the period covered by this report it has been implemented the first and second National Action Plans.

## CHANGES

*Both positive and negative that have taken place since the last report  
New areas of concern*

Positive changes are considered as follows:

- ▶ Inclusion in the National Strategic Plan for Childhood and Adolescence 2006-2009 (Plan Estratégico Nacional de Infancia y Adolescencia, PENIA) various strategic objectives and actions for each of them referred specifically to violence toward children. In particular, it should be noted: Strategic Objective 3: “To advance the promotion of policies to support families in exercising their responsibilities of child-care and promotion of personal development and potential capacities of children, and to facilitate reconciliation of work and family life”. Strategic Objective 4: “Raise awareness about the rights, needs and interests of children and adolescents by mobilizing all players involved in different stages of socialization and community social networks”. Strategic Objective 5: “Promoting the rights and protection of children in media and new technologies”. Strategic Objective 6: “Enhancing social care and intervention for children and adolescents at risk, unprotected or with disabilities and/or situations of social exclusion, establishing quality standards and shared best practices capable of evaluation.”
- ▶ On the legislative front, were approved the following laws:
  - Law 27/2003 of 31 July, regulating the order of protection for victims of domestic violence. Refers to children and avoids confrontation with the offender and the protection from the offender should that be the case.
  - Organic Law (Ley Orgánica, LO) 11/2003 of 29 September, on concrete measures relating to public safety, domestic violence and social integration of foreigners.
  - LO 1/2004 of 28 December, on comprehensive protection measures against gender violence. Incorporates measures of common interest such as training in equality for men and women within the education system, and the suspension of parental rights in cases of gender violence as a protective measure.
  - LO 15/2003 of 25 November, by amending the LO 10/2995 of 23 November, the Criminal Code, Código Penal (CP), introduces some modifications with regard to crimes of sexual exploitation of children, stiffer penalties and criminalizing possession of child pornography.
- ▶ Approval of the Master Plan for Coexistence and Improving School Safety (Plan Director para la Convivencia y Mejora de la Seguridad Escolar), launched by Instruction 3/2007 of the Secretary of State for the Ministry of Interior which was approved by Instruction 11/2007, “The intervention protocol for juvenile police” (El protocolo de actuación policial con menores), establishing uniform criteria for action by all Security Forces.
- ▶ For children who perish at the hands of a criminal or other forms of violence, the prevalence has decreased from 2005 to 2006, with children under 13 years of age are most affected. In cases of homicide, evolution has been more regular, with adolescents between 16 and 17 the hardest hit. Although, these figures represent a very small percentage of the total number of crime victims. Also noting a decline in the number of fatalities of gender violence in the family from 2005 to 2006, with children between 0 and 13 years, the group hardest hit.
- ▶ Presentation to the Committee on the Rights of the Child of Spain’s initial report on the implementation of the Optional Protocol to the CRC on the sale of children, child prostitution and child pornography (CRC/OPSC/ESP/1).

- ▶ Added to the already existing National Action Plans against Commercial Sexual Exploitation of Children and Adolescents (Planes Nacionales de Acción contra la Explotación Sexual Comercial de la Infancia y la Adolescencia), was the Comprehensive Plan to Combat Human Trafficking for Sexual Exploitation 2009-2012 (Plan Integral de Lucha contra la Trata de Seres Humanos con Fines de Explotación Sexual 2009-2012).
- ▶ Regarding the protection of children from abuse, neglect, sexual and labor exploitation, including pedophilia, pornography, trafficking and kidnapping, and violence, we should highlight the work done by the Special Forces of the National Police (Grupos de Menores de Policía Judicial -GRUMEs-), the Civil Guard (Equipos Mujer Menor -EMUMEs-) and other groups, highlighting the Technological Crimes Squad.
- ▶ The Childhood Observatory, through the Working Group on Child Mistreatment, is working on a proposal for unification of approaches to the concept and the intervention on child abuse and model sheets for reporting. In this sense, it has developed a child abuse course module, which is incorporated into the User Information System of Social Services (Sistema de Información de Usuarios de Servicios Sociales), approving in 2007 a course module reference for the development of a protocol for dealing with child abuse cases, that is designed to ensure adequate interagency coordination once detected and reported cases of abuse, becoming as a complementary tool to the sectoral protocols of each professional field.

On the contrary, the following are considered negative aspects, which are indicated below:

- ▶ Children and adolescents are exposed to high levels of violence in three different aspects: as witnesses, as victims and as children who use violence. It is also present in all regions, often in cases of abuse accumulate different risk factors and is also common for the same child to suffer from different types of abuse.
- ▶ The Secretary of State and Security for the Ministry of Interior (Institute of Childhood and Urban World, Instituto de Infancia y Mundo Urbano -CIIMU-, 2007: 106-107) reveals that the number of child victims of the offenses “against sexual freedom” has increased in most categories, recorded in the year 2006 a total of 3.651 victims. The number of cases of corruption of minors has doubled and tripled with regard to pornography. Furthermore, sexual abuse, although not increased, remain the most common offense, with 1.199 victims in 2006, increasing significantly the number of sexual abuse with penetration. Regarding the gender of the victims, girls are still by far the most affected.
- ▶ According to a study by the CIIMU (2007: 104-105) based on data from the Statistical Yearbook of the Ministry of Interior, the most frequent offenses within the scope of domestic violence is abuse, both sporadic and habitual, with a prevalence of 6.444 cases. The abuses in the family are much wider to all children under age of 13. However, following the criterion of sex, it is stated again that girls between 16 and 17 suffer to a greater extent the abuse in the family and sexual abuse crimes, thus confirming the existence of gender violence focused on girls as they grow up.
- ▶ On its behalf, the figures being handled by the Child Telephone Hotline run by Fundación ANAR (2007 and 2008) show that the total calls attended were children who were victims of violence, 1 in 3 refers to a situation of violence of various kinds carried out upon a child in Spain. Of these, 9,35% is for children with serious behavioral disorders. Similarly, of the total calls attended, 27,99% referred to cases where the perpetrator was another child.



- ▶ Regardless of the data recently pointed out, there does not exist rigorous knowledge regarding the size of the problem because there are not systematized and consolidated available data on victims and the different forms of violence that are committed. This weakness in the data raises serious difficulties in analyzing the consistency of legislation, public policies, resources and programs.
- ▶ Lack of awareness among citizens for reporting child abuse and ignorance, if any, about the proper channels to do so. This is compounded by a general lack of knowledge by children and adolescents of their rights and how to enforce them. They also found many difficulties in accessing the resources where they can receive help.

## OBSTACLES

### *Found in the carrying out of obligations required by the CRC*

- ▶ As noted previously, no systematic studies, databases nor unified records, which give an objective and comprehensive view of the magnitude of the problem of child abuse exist nationwide. There are several official sources that provide relevant data on children and adolescent victims of violence, including the Statistical Yearbook of the Ministry of Interior; those developed by Offices of the Public Prosecutor for Children; records systems of the CCAA; other reports by relevant institutions such as the General Council of the Judiciary (Consejo General del Poder Judicial, CGPJ) on victims of gender violence; and the data detached from actions undertaken by the State Security Forces. However, the records are not systematic in describing all forms of violence, referring to categories, sources of verification and different population groups. Thus, it is not possible to draw comparisons.
- ▶ The weakness pointed out above about the existence of general indicators on abuse also limits the possibility of deeper research of hidden phenomena, such as sexual exploitation or trafficking of children and girls for sexual exploitation, labor or begging. Similarly, in relation to victims of sexual abuse, there are images circulating on the Internet, although there are not enough reports of victims of these crimes and the system lacks strategies for identification and for appropriate care. Moreover, children of mother's who are victims of gender violence, are relegated to second rate care and participation in judicial proceedings.
- ▶ Available information is not collected from the perspective of the victims and noted disparity between the criteria used to collect data in the social field and data in the legal field.
- ▶ The lack of data on violence against children and adolescents with disabilities.
- ▶ Despite the efforts already undertaken at a national level identified by the Childhood Observatory, there is still no proper coordination by the various fields concerned. Thus, in the case of the central government, given the transfer in the management and decision making on various issues to the CCAA as established by the LO 1/1996 of 15 January about the judicial protection of the minor, on partial modification of the CC and the Civil Procedure Law (Ley de Enjuiciamiento Civil, LEC), there are sufficient safeguards and accountability from the CCAA to central government. In the case of the CCAA, significant differences are identified and weaknesses, such as: budgets depend on the priorities of each autonomous government, each Autonomous Community (Comunidad Autónoma,

CA) develops its own tools and protocols for action, which does not guarantee equal treatment.

- ▶ There are few specialized resources to care for children and adolescents victims of different forms of violence: child abuse, sexual exploitation, trafficking, daughters and sons of women victims of gender violence, etc.
- ▶ The State Security Forces, as well as regional and local forces, have direct knowledge of the crimes committed and, therefore, a source of relevant information. Their power to access places and situations of a diverse nature enables them to identify and investigate hidden issues. However, sometimes an attitude of perceived persecution of crime and the offender far beyond the implementation of preventive measures and victim compensation is noted. This is demonstrated in cases where the child is a victim and, at the same time, is involved in delinquency (ie; children forced to beg, steal or prostitute). This fact is accentuated in the case of unaccompanied foreign minors (menores extranjeros no acompañados, MENAS).
- ▶ The society as a whole continues to require more work to raise awareness on the realities of child abuse.
- ▶ The minimum age for sexual consent is still the lowest in Europe.
- ▶ The Comprehensive Plan to Combat Human Trafficking for Sexual Exploitation does not include anything but sex trafficking but does not include boys and does not specifies measures for victims.

## RECOMMENDATIONS

- ▶ Given the available data, that indicates that girls are most affected by the various manifestations of violence, it is necessary to address any action to be taken from a gender perspective.
- ▶ Approval of an integral law on violence towards children, just as those that exist for victims of abuse and domestic violence. One that guarantees to reestablish their rights and to establish minimums between the different CCAA.
- ▶ Raising the minimum age of consent for sexual relations.
- ▶ Allocation of budgets for the plans referred to above so they may be viable.
- ▶ Increased resources for programs to protect children victims of violence or at risk of becoming overweight, especially those aimed at addressing their needs for recovery. The increase in the budget shall be preceded by the appropriate political awareness level regarding the need to ensure some minimum standards and resources for prevention, protection and comprehensive care.
- ▶ The overall increase in resources will support the creation mentioned in each province of a public referral center specializing in violence for comprehensive care (medical, psychological, social and legal) for both children and adolescent victims and perpetrators. The service must be easily accessible to users and available for emergency care.

- ▶ Articulation of a unified information system on violence against children in Spain.
- ▶ Conduct a study on the impact of violence on children with disabilities.
- ▶ Improve interagency coordination for an effective response for prevention, identification and treatment of violence affecting children. In this regard, efforts should be made to strengthen Childhood Observatory as a permanent forum for work in this area and develop protocols for interagency coordination at local, regional and national levels.
- ▶ Training:
  - General training on prevention and attention to victims of childhood violence for all professionals directly involved. Assuring the inclusion of the above-mentioned issues in the academic content of related university studies. This professional training should be reinforced and encourage working and exchange within a multidisciplinary network.
  - Promotion of the parenting classes for the prevention of violence and conflict resolution in all schools in the country.
  - Prevention of violence across the board in Elementary and Secondary Education, providing schools with adequate human and material resources.
- ▶ Promotion of an awareness campaign on rights and duties aimed at children and adolescents using information and communication technologies (tecnologías de la información y de la comunicación, TIC) and in partnership with the media.



#### With gender glasses

Girls and boys have a very different perception in terms of size, type of violence that they are victims of and where each type of violence takes place.

## IV. Basic health and welfare

### Basic health and welfare

#### MEASURES

*Adopted as a response to the last observations  
made by the Committee on the Rights of the Child*

In this regard, the following recommendations of the Committee in 2002 focused on the following issues:

- ▶ The high number of children with addiction problems, in relation to drug use. Prevention campaigns have been carried out and inter-agency agreements for the promotion of health education. However, the report of the European Monitoring Center for Drugs and Drug Addiction (2007) reported the high prevalence rate in Spain of cocaine and cannabis use by girls and boys.
- ▶ The increase in teenage pregnancy and sexually transmitted diseases: on the reduction of unwanted pregnancy, number of pregnancies has increased sharply and the number of voluntary terminations. Several studies indicate an increased precocity in the onset of sexual relations. Moreover, the prevalence of children with HIV/AIDS has decreased in recent years.
- ▶ The need for Mental Health Services for Children and Adolescents: regarding the improvement in care for mental health problems in child population, highlights the announcement of the creation of the medical specialty of Child and Adolescent Psychiatry for the Residents Internists (Médicos Internos Residentes, MIR) 2011-2012. However, the attention given to this population, with a marked increase, is far from being the most appropriate.
- ▶ The practice of female genital mutilation in sub-Saharan population resident in Spain is practically eradicated, and despite its low impact, it was commented in the last State Report on the implementation of the Convention on the Rights of the Child (CRC) that in the past years the State has promoted the adoption of the following two laws for better prosecution: Organic Law (Ley Orgánica, LO) 11/2003 of 29 September, on specific measures relating to public safety, domestic violence and social integration of foreigners (which makes it a crime to mutilate or cut the genitals) and LO 3/2005 of 8 July, amending the LO 6/1985 of 1 July of the Judiciary (on extra-territorially pursue of the practice of female genital mutilation).

## CHANGES

*Both positive and negative that have taken place since the last report*  
*New areas of concern*

- ▶ Several of the factors cited in the previous section are listed in the National Strategic Plan for Childhood and Adolescence 2006-2009 (Plan Estratégico Nacional de Infancia y Adolescencia, PENIA) and have justified some of the measures and actions adopted by the Spanish State in recent years with different impacts and results. Despite this uneven impact of the actions undertaken, the coordination framework that provides the PENIA is considered in itself an advance in the field of health policy and wellness.
- ▶ On the improvement of living conditions of children with disabilities, there have been adopted different regulatory requirements and plans, among which are the: LO 51/2003 of December 2, on equal opportunities, non discrimination and universal accessibility for disabled people (LO 51/2003, de 2 de diciembre, de igualdad de oportunidades, no discriminación y accesibilidad universal de las personas con discapacidad), Prime National Accessibility Plan 2004-2012 (Primer Plan Nacional de Accesibilidad 2004-2012), and Law 39/2006, of December 14, on the Promotion of Personal Autonomy and Care for People with Disabilities (Ley 39/2006, de 14 de diciembre, de Promoción de la Autonomía Personal y Atención a Personas en Situación de Dependencia). Along with those approvals have been promoted further positive measures, such as the fact that the Public Social Security System has given a financial allowance to families with children with disabilities and improved educational services to this group.
- ▶ However, despite all these initiatives at the national level, inter-autonomous differences are notable.
- ▶ As a new area of concern, it should be noted that evidence of a significant increase in psychological disorders and psychological nature in the child population, especially with behaviour disorders. Among these include the high incidence of Attention Deficit Hyperactivity Disorder without being diagnosed with greater incidence in males, and that pharmacological intervention takes place in such cases.

## OBSTACLES

### *Found in the carrying out of obligations required by the CRC*

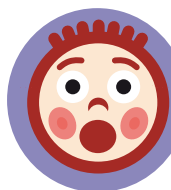
- Firstly, comment on the difficulties in integrating data and comparing them from different periods. The dispersion of data, sources of information and indicators make it difficult to analyze the impact of measures taken. This fact is endorsed by the III and IV Report on the implementation of the CRC produced by the Government, which reports that there are no systematic statistical data on specific health services for adolescents.

The following are notes on some of the examples of difficulties encountered in obtaining information on some of the reference indicators for the monitoring of PENIA 2006-2009, settled in relation to Strategic Objective 9 on infant health and wellbeing of youth:

- The number of children with disabilities, by age and sex: in 1999, 162.330 children under 19 years had a disability in Spain, corresponding to 80% of men and a prevalence rate of 7,6% (Espinosa, Sánchez and Ruiz, 2007). Subsequent studies only collected data from 6 years and show no respect for segmented data (National Institute of Statistics, Instituto Nacional de Estadística -INE-, 2008), indicating only that the overall disability rate has decreased by 0,5% since 1999 (Germán, García and Camarero, 2008). Data from children under 5 years are not comparable with those aged 6 and over, since the criteria are differential. However, data for 2008 indicate an increase of 0,2% in this population range (0-5) on total disability.
- Body mass index by sex and age groups: in 2006, 2 out of 10 children between 2 and 17 years are overweight and 1 in 10 obese. The prevalence of obesity in the population aged 2 to 24 years in 2008 is estimated at 26,3% (13,9% for obesity and 12,4% for overweight) (Aranceta, 2008), with a higher prevalence rate of overweight plus obesity of 33,5% among 6 to 9 years (García, 2007). In this sense, it is estimated that Spain continues the same trend as countries with historical problems of obesity and overweight. Data regarding eating disorders are still unclear and contradictory (López and others, 2008: 30).
- Alcohol consumption by sex and age groups: the National Health Survey does not include the population under 15 years in the questionnaire (Álvarez and others, 2008). The comparative figures for 1998 and 2004, according to other sources, indicates that the percentage of population between 15 and 19 who said they drank was at around 50% in both periods, making it stable with a slight decrease in the percentage of males and an increase in females (Espinosa, Sánchez and Ruiz, 2007). Overall, there has been a decline in the consumption of alcohol and drugs (Espinosa, Sánchez and Ruiz, 2007).
- Consumption of drugs by sex and age groups: the data thereon in the INE Health Surveys in 2003 and 2006 periods can not be compared because the items are presented in different ways.

Moreover, it complicates the comparison of data with other countries, given the different models of care, health systems and management of health resources.

- The transfer of responsibility for healthcare and children to the Autonomous Communities (Comunidades Autónomas, CCAA) by the State has led to a lower equity because each of the communities tend to design their own systems of healthcare and children's services, with different resources and approaches.



#### How embarrassing...

According to the evaluation of girls and boys, hospitals and health centers are the infrastructure best suited for people with disabilities, followed distantly by schools, sports facilities and parks. The worst evaluation is of streets. However, there have been differences in the assessment of infrastructure and functioning spaces depending on the place of residence of the participating children.

## RECOMMENDATIONS



#### Speaking out loud...

"The healthiest thing is to play sports, eat well, play games, make friends, take care of yourself and enjoy life."

- Reform of the infantile and juvenile health systems, especially the increase of specialists in pediatrics, as well as recognition and development of specialists in childhood psychiatry.
- Development of protocols in primary healthcare and promotion of networks for health, education (formal and non formal) and family for the prevention and early detection for behavioral and mental health problems for children.
- Improved and increased training of healthcare professionals in matters relating to childhood and adolescence, not only from a medical standpoint, but also evolutionary, psychological and social, so as to provide for both stages in a comprehensive bio-psycho-social perspective.
- Improving inter-autonomous coordination regarding the detection of situations of abuse to children and adolescents, reporting and action protocols, and communication between the structures linked to the care and protection of childhood and adolescence.
- Need for greater attention to child health issues related to social causes, such as mental health problems, the increase in Type II Diabetes, abandonment, abuse and attitudes toward children, school failure and eating disorders.
- Promote coordination and networking of all government agencies -most notably between the central government and the CCAA- and articulate civil society through the third sector



involved in social actions.

- ▶ The development by public authorities of regular reports, preferably annually, in which a follow-up of minimum indicators common to the entire State with a further segmentation of existing samples and the inclusion of applicable age ranges from 0 to 18 years of age. Publication and subsequent dissemination of the findings and recommendations derived from each of them.
- ▶ Design minimal intervention guidelines shared by all CCAA in reference to proceedings in the reception centers for children with behaviour problems, with special attention to the collection and dissemination of results of therapeutic interventions.
- ▶ Promotion of coordination between primary care services and educational agencies for the promotion of health education, with particular attention to the development of affective-sexual education in view of its influence as a factor for the prevention of gender violence.
- ▶ Implementation of effective monitoring of issues related to disabilities as contemplated in PENIA 2006-2009 through the creation of a working group on children and disabilities within the Childhood Observatory within the Ministry of Health and Social Policy (Ministerio de Sanidad y Política Social, MSPS).



**To jot down...**

Although nearly half of respondents consider they have enough information about health issues, they express that they would welcome further information on sexuality, healthy eating, drugs and disease prevention.

## Poverty and social exclusion

### MEASURES

*Adopted as a response to the last observations  
made by the Committee on the Rights of the Child*

Child poverty is an issue of fundamental importance in Spain. According to national statistics 1 in 4 children (24%) is living in a household whose income is below the level considered “at risk of poverty” (defined as 60% of median income). This figure places our country in fourth place in the European Union (EU) with the highest rates of child poverty, along with Italy and Portugal (Ayala Cañón, L. and others, 2006: 8).

Since 2002, despite the Committee’s recommendations in that year that the Spanish State should define “clearly its priorities with respect to the rights of children to ensure that funds are allocated to the maximum of the resources available for the full realization of economic, social and cultural rights, particularly children belonging to vulnerable groups of society” (Committee on the Rights of the Child, 2002: 4), rates of child poverty have remained stable at around 25% of the children.

The Plataforma de Organizaciones de Infancia is concerned about how little importance is given to child poverty and there is little coordination of policies and strategies to combat child poverty in different areas (both in the different territorial levels and between ministries and departments). Although created, since 2002, several National Plans for Social Inclusion and a National Plan for Children, children’s poverty and social exclusion have not been considered policy priorities. Good reflection of this are the few allusions to this item on Action Plans for Social Inclusion of the Kingdom of Spain (NAPs) 2006-2008 and 2008-2011.

Within the NAP 2008-2010 it was observed that, as in previous cases, the plan is mainly focused on the promotion of employment, minimum income guarantees, quality education and social integration of immigrants. Only one of these objectives to “Achieve quality education” is more clearly aimed at children, but with a focus mainly aimed at ensuring future access of students to the labor market and not to guarantee their rights. This NAP includes children in the activities section for the most vulnerable, but refers us to the National Strategic Plan for Childhood and Adolescence 2006-2009 (Plan Estratégico Nacional de Infancia y Adolescencia, PENIA). Nevertheless, the current NAP is a small improvement on earlier plans as to the presence of children and their rights, absent in previous essays.

In the PENIA 2006-2009 (Ministerio de Trabajo y Asuntos Sociales, Ministry of Labor and Social Affairs, 2006) there are not any specific objectives aimed to tackle child poverty, while addressing several issues: reconciling work and family, scholarships, combating truancy, promoting the work of NGO in the prevention of poverty, etc. The Strategic Objective 6, the closest to approach the issue of poverty (“Enhance social care and intervention for children and adolescents at risk, unprotected or disability and/or at risk of social exclusion, establishing quality standards and shared best practices capable of assessment”) takes place in several steps, one of which is precisely (in a curious circular reference) including measures against child poverty in the NAP.

On autonomous and local levels, again the child poverty is generally absent in the goals and actions, both in family plans and/or plans for children (if any).

## CHANGES

*Both positive and negative that have taken place since the last report  
New areas of concern*

In the period covered by the report, overall poverty has declined in real terms (the poor improved their standard of living in absolute terms). However, the data show an increased risk of poverty among certain groups, and particularly the worsening situation of families with sons and daughters (Ayala Cañón, L. and others, 2006: 15).

It remains very high the difference between poverty of children and the rest of the population. Child poverty is 33% higher than in adults 18 to 65, above the average of the total population and is exceeded only by the poverty rate of over 65 years of age (European Commission, 2008).

Another study of Fundación Foessa (2006) expresses concern over the increasing trend of child poverty in the last 10 years and the particular impact that severe poverty (households living with incomes below 25% of the medium) has on children (3,5%), exceeding the rates of other age groups and is particularly serious with it that is a violation of basic rights to survival and development of these children.

Household composition and employment status of parents remain key to the poverty of children in Spain:

- ▶ Family structure: single-parent households (usually with the sons and daughters under the charge of mothers) and families with three or more children soar in child poverty rates over 12 percentage points on average. The Law 40/2003 of November 18, on protection of large families (Ley 40/2003, de 18 de noviembre, de Protección a las Familias Numerosas), extending the large family status to families with three children to access some grants or discounts on utilities, seems to not have had the desired effect.
- ▶ The employment situation: the unemployment situation of adults in the household is almost a determining factor of poverty. Spain, both historically and currently, has presented unemployment rates well above those of neighboring countries. One detail is the fact that Spain has very high rates of child poverty in households where at least one parent works (the second in the EU after Portugal) according to information provided by the European Commission (2008). This fact is closely related to job insecurity, low wages and undesired part-time employment (not a choice of the employee).

Other factors make children particularly vulnerable to poverty: belonging to certain minorities, the scant attention paid in the educational period of 0 to 3 years (in which demand outstripped supply) and the status of sons and daughters of immigrants. For example, in Spain the poverty rate for children born in Spain is 21%, while it is at a worrying 52% in the case of children born outside the EU, this difference becomes more notable in the case of severe poverty, using as a threshold of 25% of the median (4% vs 28%). Other groups of children such as those belonging to the Roma or children with disabilities, they also have poverty rates well above average. Furthermore, legislative progress has been made (through Act 3/2007 of 22 March, for effective equality of women and men, Ley Orgánica -LO- 3/2007, de 22 de marzo, para la igualdad efectiva de mujeres y hombres), although this has not yet had a positive effect on the reality of women with family responsibilities to allow a real choice and therefore, compatibility between family life and work.

It is also necessary for better analysis of child poverty to do it from a gender perspective, the comparison between different regions (in regards to the poverty of the entire population shows significant changes depending on the territories), and improve information on child poverty in different settings (ie; rural and urban).

As for as the permanence of poverty, according to research, the persistence over time in poverty is higher in children than in the rest of the population. Children in Spain not only have a higher poverty rate, but it also becomes more chronic and more likely to be prolonged in time. Also, girls and boys are more likely to enter the category of low income poverty and are less likely to escape this situation compared with adults and the total population.

Again, the analysis made by the European Commission (2008) on child poverty yields useful information, putting Spain in the so-called group D of nations, characterized by high levels of child poverty, very high levels of working poor families that work for “low-intensity labor” (few households with two incomes), and the lowest levels of social benefits and efficiency of the aid of the Union.

## OBSTACLES

### *Found in the carrying out of obligations required by the CRC*

According to analysis by many experts and institutions, one of the main causes of high child poverty rates is the shortage, or even absence, of public policies and concrete measures to combat this grave phenomenon. In the case of Spain this relationship between government intervention, social investment and child poverty is very evident. The level of social aid to families with sons and daughters is among the lowest in the EU. According to the Statistical Office of the European Communities (Eurostat, 2008), social investment in family and childhood policies was 1,1% of Gross National Product (GNP) in 2005 compared, to say, 2,5% in France, Greece 1,5% or 3,2% of Germany.

Nor has changed in this period public investment in education, which between 2001 and 2006 remained constant at 4,2% of Gross Domestic Product (GDP), a point below the EU average. The figure is far from Denmark, which spends 8%, or Sweden, with 6,9% and only ahead of Slovakia, Bulgaria and Luxembourg.

Although there has been an increase in social investment dedicated to families and children since 2000, it remains very low compared with surrounding countries and is clearly inefficient. Apart from the NAPs, which, as noted above, do not seriously consider this phenomenon, there has not been an integral approach to combating child poverty on a national, autonomous, or local level.

The design of policies for social protection and inclusion has been designed to serve particularly vulnerable groups (also with few resources and little success) and not universal welfare policies for girls and boys. As is clear from a study by the Fundación Foessa (Ayala Cañón, L. and others, 2006: 28), “The current network design provides benefits, therefore, less on child protection as other population categories. Its contribution to poverty reduction will also reduce over time, showing not only limited effectiveness, but a gradual loss of protective strength.”

While Spain has not taken advantage of the situation of economic boom experienced up to 2007

to reduce child poverty rates, currently under one of the first published analysis from social organizations (Laparra M. and Ayala, L., 2009: 15) is demonstrating the severe impact of the economic crisis in young families with small children who have become the most vulnerable group.

Undoubtedly, the very low social investment in families and children, lack of coordinated policies to combat child poverty, with specific and measurable objectives, and the very low presence of children in the plans and social policies and development welfare state, are the major obstacles in improving the situation of the rights of children in this area.

## RECOMMENDATIONS



### Speaking out loud...

**"Low income families need all the help they can get."**

- ▶ The Spanish government and the regional and municipal administrations should considerably increase their resources for family and children, with particular focus on the fight against childhood poverty. These resources must be maintained throughout the years, coordinated among the distinct public administrations and complement other investments in goods and services. A protective system that is much more widespread and efficient than the present one would make possible a reduction in the number of incidents related with childhood poverty, as well as its persistence to continue and differentiate Spain from other neighboring countries.
- ▶ There is an urgent need to plan and coordinate actions that fight the high levels of childhood poverty in Spain. We recommend the creation of a National Plan against childhood poverty that establishes a coherent framework in which we can identify priorities actions to fight against exclusion, included, should be specific and measurable objectives, with clear indicators, with timeframes, and with the necessary economic and financial support. This plan should be capable of effectively coordinating actions on a national, autonomous and municipal level including specialized areas (especially economy, health, social policy, and education), which all have major responsibilities with children.
- ▶ The planning and allocation of resources should be done with a comprehensive analysis of tax, health, educational policy and social issues affecting families and children, its impact on the welfare of children and with an approach to the rights of the child. This includes:
  - The establishment and improvement of indicators of child poverty and exclusion, focusing on the child as an individual, not only on family status.
  - The design of support instruments which have the target specifically girls and boys, in addition to generic support to families.
  - That those services, resources and assistance of all kinds aimed at people with low income or unemployed should always take into account the presence of children in households when assessing the amount, and that it is estimated in relation to the actual proportion of the cost of children in households and not from a general estimate.



**To jot down...**

Over 90% of children and adolescents consulted believe that tackling poverty and exclusion requires help in the socio-economic areas, and feel that at present the resources allocated are not sufficient.

- ▶ It is necessary to take special measures aimed at supporting children and families most at risk of poverty, giving priority to children in institutions, ethnic minorities, single parent families headed by young mothers with precarious employment, large families, which have only one income, the unemployed, as well as those of immigrant origin and those with a member with disability, situations that sometimes occur simultaneously in the same family.
- ▶ Along with specific policies aimed at families with low incomes and particularly vulnerable groups, further progress in the development and improvement of policies, services and support of a broad nature or universal prevention of child poverty, for example, minimum income guarantee for families, the real free education (textbooks, school meals), aid and services to families with children 0 to 3 years, improving the reconciliation of family life and labor, and combating school dropout rates.
- ▶ We need to support the legislation related to the conciliation of family life and work endowing that legislation with positive actions and budget, allowing it to be implemented.
- ▶ Need to promote a national pact led by the Public Administrations (Administraciones Públicas, AAPP), involving businesses and featuring families and children themselves in the fight against poverty. At all levels there is little awareness of the enormous current and future impact that high child poverty rates pose to the exercise of the rights of children for adult life and the urgent need for action and serious risks, not only social, but economic, also facing the country.

## V. Education, leisure and cultural activities

### Education

#### MEASURES

*Adopted as a response to the last observations  
made by the Committee on the Rights of the Child*

Regarding this issue, the Committee noted in 2002 the following:

- Dissemination of the Convention on the Rights of the Child (CRC): education and training of children, the population in general and in particular professional groups as requiring permanent care, proposing systematic education and training of the principles and provisions of the Convention for all professional groups working with and for children. The reality is that the diffusion of both the CRC and its Optional Protocols is still inadequate, NGO play a key role in this regard. The Convention has not been part of the decrees of education, although the legislative changes (Act 2/2006 of 3 May, on education, Ley Orgánica -LO- 2/2006, de 3 de mayo, de Educación) have allowed the incorporation of references to the CRC in the curricula of Primary Education through the subject of Citizenship. However, in practice it has not been properly implemented. NGO are mainly, through activities, in early childhood education centers, primary and secondary and free elective courses at university level, who are promoting the issue through academic training sessions. In connection with the above, highlights the lack of textbooks and support material that in those particular university degrees linked with childhood and adolescence, such as Psychology, Social Work, Social Education, Pedagogy, Law and Medicine, incorporate some reference to CRC. Finally, one should note the absence of subject matter in the future content of the new European Higher Education Area, to be delivered progressively over the academic year 2009-2010, which is considered a lost opportunity to improved training on the Convention.
- It was demanded an improvement on truancy and dropout rates. The official data available at national and regional levels and the experience of NGO, both coincide with deep concern for the high rates of absenteeism and dropouts. Equally concerned about the structural weaknesses that are found when trying to gather information on this area, given the difficulties encountered in the monitoring of indicators and sources of verification, as well as the fragmentation that impedes in-depth analysis. In the light of the information discussed it can be observed the special vulnerability of migrant populations studying in secondary school, making them the protagonists of neglect and school failure in this period, especially those boys and girls living in rural areas. This group is subject to further discrimination because of their status as migrants and the lack of adequate support for them to learn and to have equal access to the educational system. Cultural issues clearly have a role in both the initial enrollment and the possible subsequent dropouts. The consequences of absenteeism and neglect lead to difficult situations for adolescents in poor social and family contexts and the lack of initiatives.
- Request for action to prevent bullying and other forms of violence in schools. The lack of clear and shared rules regarding conflict resolution and promotion of appropriate attitudinal learning brings, among other consequences, that many schools do not work to focus their prevention and post-conflict interventions. This often results in delayed actions that over time positions have



become much more complex. Bullying and school violence provoke, depending on its severity, physical and psychological damage that can lead to failure and abandonment.

- It raised the promotion of a culture of peace and tolerance, along with measures to prevent negative effects of terrorism on children. It remains a concern for the development of children and adolescents living in the Basque country facing this reality.

## CHANGES

*Both positive and negative that have taken place since the last report  
New areas of concern*

### Formal education

- Since 2002 two laws were adopted on the nations education: the LO 10/2002 of 23 December, on quality in education (LO de Calidad de la Educación, LOCE) and the LO 2/2006 of 3 May, on education (LO 2/2006, de 3 de mayo, de Educación, LOE) repealing the previous one. Missing is a Pact of State on the issue presently under discussion, to give security to the system and definitely ensures the establishment of minimum safeguards in the implementation of this right.
- We can confirm a steady increase in school fees for preschool education, which are still insufficient.
- The truancy and dropout rates remain very high, there are noticeable differences between autonomous regions.
- There are also notable differences between autonomies in the percentages of pupils with special educational needs. It is not known what might be behind these differences, although it is significant that, according to the information discharged by the State in its Report, 83% of students with special educational needs enrolled as a student of integration and only the remaining 17% do so in special education.
- School violence: while the issue remains the subject of attention and controversy in society in general and with some regularity in the media, the data gathered in an investigation by the Ombudsperson (2007) confirm a decline since 2000 in the number of victims and the perception of having some form of abuse by colleagues. In any case, it is still necessary to improve actions to prevent its occurrence and minimize its impact.

### Non formal education

- As progress in this area it is recognized -although still insufficient- a greater recognition and visibility of non formal education as part of the educational community, together with the development of more complete and transversal programs, for which there is more documentation and support tools.
- It is also well considered, the fact, that the nature of these activities promote participation and respectful relations with a peer group. Equally positive is the increased leisure time, the

need to reconcile work and school and the potential of the educational use of information and communication technologies (tecnologías de la información y de la comunicación, TIC).

- Despite the above mentioned, there are weakness related to this issue. Social organizations which are the largest providers of non formal education, at times, suffer from structural and organizational problems, besides not always internally recognizing the value of such activities. In addition, there maybe excessive economic dependence on partners and external funding sources.
- The III and IV Report of Spain compiles data on the percentage of children in the non formal education system, especially the data related to sports, learning languages, music and computer science. However, no data on participation in other educational activities such as recreation centers and activities in the rural areas, leaving a void with respect to girls and boys who are part of associations and recreational groups.
- Although the National Strategic Plan for Childhood and Adolescence 2006-2009 (Plan Estratégico Nacional de Infancia y Adolescencia, PENIA) mentions within the Strategic Objective 8 a measure to promote programs for leisure activities, no data exists on the actions developed.

As new areas of concern, transferred are the following questions:

- Children with special educational needs: schools do not have sufficient teams of staff counselors to meet the wide range of pupils with special educational needs. Counseling teams are key to proper diagnosis and treatment of the main problems that may exists within and outside the classroom. In this sense, migration has made the coverage of this service more complex.
- There is evidence of improper awarding of matriculations in schools. In some cases, families falsify some data from the application files with the intention of choosing a school and finally tricking the established system and the final score obtained which is used to matriculate students in the school system.
- The growing privatization and outsourcing of services and resources in some local and regional public administrations (Administraciones Públicas, AAPP) favor a more market based model to the detriment of associations.
- Children not in school: while the Ministry of Education repeatedly states that indicators of access to education reflect nearly 100% of population of school age children registered in school, the Romanian population, Roma and other populations (Saharan and Moroccan migrants) have irregular census data. There are indicators that sometimes they do not attend regular school for cultural reasons and unawareness on the education system, including their right and guarantees to receive compulsory and quality education. This reality is found more in rural areas.
- Coordination: there are, at times, a lack of adequate coordination between schools and their staff and other related systems, particularly social services and health. In this regard it is a further concern the lack of adequate coordination and communication between schools and families, especially in the case of children at risk or in exclusion, including migrants children.

- Non formal education: are not considered mandatory resources, so they are dependent on public initiatives (municipalities or district boards) or private organizations. The lack of resources, coupled with the lack of reconciliation measures (family/work), causes children to spend part of their time alone consuming television, video games, computers and others, which are not always considered positive.

## OBSTACLES

*Found in the carrying out of obligations  
required by the CRC*

### Formal education

- There is not a comprehensive approach to ensuring the resolution of absenteeism and dropout rates by implementing adequate supervisory measures, monitoring and intervention.
- Schools do not always have the knowledge and resources needed to cope with the rapid and diverse changes taking place in today's society. So there is concern about the response that some schools are giving to the needs of child and adolescent development.
- The right of children to participate in schools remains low and uneven, relying more on will and consent of the adult population than on the exercise of an inherent right of children.
- Disciplinary actions are subject to the educational ideals of individual centers in the case of private schools with public funding and with no public funding, there are no restrictions on the application of such disciplinary actions. This, in addition to causing insecurity, creates an imbalance between the limits that a child needs for proper development and limitations on staff and educational communities in the case of not having sufficient skills to resolve situations in a non-punitive manner. This lack of specific protocols is equally detrimental to the faculty.
- The subject of Education for Citizenship is a recent educational initiative driven to introduce Human Rights and other social issues of a global nature into the classroom. Although initially, this has generated debate and the resulting media impact, centers have found no significant reluctance to teach this subject. In any case, the contents of the subject being taught have come through before the official teaching of other subjects such as Philosophy, Religion and Ethics. In the case of non formal education mainly NGO are the ones to offer workshops and training activities associated with closely related topics.
- In the case of Vocational Training, the mechanisms are inadequate to insert graduates into the labor markets.
- There is a very high ratio in the second cycle of early childhood education that can reach, in some Autonomous Communities (Comunidades Autónomas, CCAA), 1/28 and should be lowered to 1/18 or include more than one teacher in the classroom.
- The tutorial (home room teachers) work is done unevenly in schools (especially secondary school), mainly due to the lack of tools to function properly, clear methodological guidelines, lack of support and monitoring.

- Public investment in education has continued during the period 2001-2006 at 4,2% of Gross Domestic Product (GDP).



#### How embarrassing...

Regarding child participation in schools, most children state that participatory techniques are hardly used by teachers and traditional techniques are still prevalent, 43% consider that they are consulted “sometimes” or “never “ on improvements to be made at school and over 50% say they do not know their school representatives. All this suggests that child participation in schools remains a challenge.

### Non formal education

- Invisibility of non formal education in documentation, data and policies which are not being collected due to their unofficial nature.
- Although it is known the number of associations and organizations that exist, as they have to be legally registered, there is no data on the number of participants, their activities, or the educational content that each organization works with.
- In relation with the previous comment, there are no mechanisms to supervise activities in the non formal education sector.
- There are no guarantees for access to an educational free time activity, so that the participation of children and adolescents in a peer group and their education during these period can be really reduced which limits educational experiences only to the classroom.
- Access to activities, when it exists, is unequal. There are major differences depending on age groups for whom they are intended; times in which they occur, which vary widely among centers; and individual criteria for admission.

## RECOMMENDATIONS



### Speaking out loud...

"We want them to ask us what type of activities we want to do after class, not that city hall, the school or the PTA (parent teacher association) decide for us."

- ▶ Achieve a State Pact for Education, which is in progress.
- ▶ Assure a balanced distribution of the resources among CCAA.

## Formal education

- ▶ National Administration:
  - Increase the number of places and equal access to schools within the range of early childhood education (birth to age 6)
  - Ensure mandatory, but free access to early childhood education between 3 and 6 years of age nationwide.
  - Promote training on the CRC and its Optional Protocols in the formal and non formal education system.
  - Health education and child welfare: promoting within schools and the learning community the strengthening of health education, with special attention to promoting healthy eating habits and prevention eating disorders. The above reinforcement must be accompanied by sufficient resources.
  - Promotion of the right of the child to participation.
  - Special educational needs:
    - Elimination of architectural barriers that persist in the educational communities, ensuring their elimination in new initiatives.
    - Improved coordination of mechanisms in the transition stages between early childhood, primary and secondary education, especially in cases of students with special educational needs.
    - Studies and research regarding children and adolescents with special educational needs, to improve the current understanding of their reality.
  - Protection:
    - Continuous support of awareness programs to eradicate all forms of violence within schools, while promoting and sharing successful best experiences in school mediation and conciliation. It is essential, the involvement of the entire school community, including families, which could be supported by neighbourhood associations and other local actors.
    - Networked and coordinated interventions among institutions with a comprehensive approach to treating children at risk and in exclusion, especially in those extreme cases where families are part of a poverty cycle.

► CCAA:

- Improved coordination between autonomies, and between them and the central government.
- In relation to the previous point, setting improvement goals to respect diversity and the adequate curriculum. As well as the adequate return of qualitative and quantitative data on education indicators for all stages back to the Central Administration, allowing for a rigorous and reliable information system.
- Improved coordination among schools, local government and social organizations.
- Building of a culture of rights and child participation as the foundation for personal and collective empowerment from the very start.

## Non formal education

- Promote necessary legislation for the adequate regulation of activities and spaces for recreation and leisure time assuring an educative character to these spaces of non formal education.
- Establishing the necessary training profile for professionals who develop their work in this area, ensuring a qualified training, recognition of previous experience and to integrate the characteristics of non formal education.
- Greater transparency in the job offers for leisure professionals.
- Increase in the budgets destined for non formal education at all levels of public administration.
- Establishment of guarantees for equal access to leisure and entertainment for children and youth, to take into account and include the families, encouraging participation and ensuring educational content.
- Increase in the budget aimed at international cooperation funds intended for implementation by NGO of educational and awareness of the CRC.

## Right to play

### MEASURES

*Adopted as a response to the last observations  
made by the Committee on the Rights of the Child*

No comments have been received, specifically aimed and reflecting the right to play, although certain recommendations regarding education, recreation and cultural activities were linked to this issue.

### CHANGES

*Both positive and negative that have taken place since the last report  
New areas of concern*

- ▶ Although there is general awareness of the importance of play, there is a decline in the value attached to socio-cultural activities.
- ▶ There is also a more egalitarian relationship between the sexes, which has created the emergence of new concepts, such as education through games, the value of having quality time with the children and enjoyment of the family.
- ▶ There has been a change in thought regarding play, moving the focus from the activity from the object (the toy) to the interaction.
- ▶ The authorities have outgrown the old framework of assistance and have started to direct their actions progressively towards improving the quality of life and preventing risks related to children, without forgetting about the priority attention required for children in the most vulnerable and excluded situations. It is in this context where there is found a growing awareness on behalf of the Public Administrations (Administraciones Públicas, AAPP) to provide such resources. This, together with the need to balance personal and work life, has favoured an increasing number of facilities and recreational resources (such as games and books for children), however, still inadequate.
- ▶ Similarly, physical spaces have improved in the development of new urban planning. So, within these new spaces it is mandatory to include social spaces, such as parks and cultural centres. However, there is a sharp increase in the traffic requirements in urban and environmental planning which does not always take into account the needs of children in general and their right to play in particular.
- ▶ The National Strategic Plan for Childhood and Adolescence 2006-2009 (Plan Estratégico Nacional de Infancia y Adolescencia, PENIA) includes as a Strategic Objective 10 "To promote a physical, environmental, social, cultural and political right to foster the development of the capacities of children and adolescents by promoting the right to play, leisure and recreation, creating appropriate safe spaces, promoting responsible consumption in both urban and rural settings." More specifically, the PENIA collects as measures within the mentioned Objective as follows: 10.6 To promote the development of playgrounds and accessible spaces for play, in order to develop children's abilities, encourage relationships, and involve children. Also to



collect information on good practices in leisure libraries (“ludotecas”) and other resources for play, recreation and leisure; 10.8 To promote training programs for staff intervention about free time and environmental activities for children, highlighting those that develop skills for work with at risk population; 10.10 Improving safety and quality in public facilities of the playgrounds.

- Despite the progress that the very development of PENIA 2006-2009 contains, and the incorporation of play as an issue included in one of the main objectives, the proposed indicators are generic, difficult to quantify or measure, and not rigorous enough, to reflect the reality of implementing the right to play in Spain. This is proven through the absence of relevant data obtained under the Implementation Monitoring Report of PENIA in 2006-2007 (Informe de Seguimiento de Aplicación del PENIA en el periodo 2006-2007, Ministry of Labor and Social Affairs, 2008).
- At a regional level, although there are differences with regard to legislative development, virtually all of them, in greater or lesser extent, include the right to play. Similarly, there are Autonomies that have their own children’s plans, as is the case of Andalucía, Canarias, Cantabria, Castilla-La Mancha, Castilla y Leon, Cataluña, Galicia, La Rioja, Madrid, Navarra, Principado de Asturias and Valencia, which include the right to play, although those plans are not considered legal instruments.
- In another development, the above mentioned weakness of data repeats itself related to the lack of information available on the safety and quality of public facilities and playgrounds, as well as regulation of traffic in urban areas.
- The inadequacy of recreational spaces also occurs in schools, where few of them have a well-designed patio. In private, gated communities (which are an ever increasing alternative to public spaces) are small spaces where many times games are prohibited.
- Adults have created “artificial spaces” to compensate for the lack of natural places to play, including the absence of playmates.
- Such artificial spaces are the so called “ludotecas”, although there is not one unique concept for all of them, nor legislation (not being recognized as educational spaces, but as leisure spaces, there are no common rules or requirements that exist). Given this, despite the quality of many of them, that have an educative project and clear objectives based on a ludic/educative methodology, however others, are not always recommendable, such as the game rooms in commercial areas.
- On the other hand, there is limited access due to place, age and schedules, and also the economic cost of the activities. Thus, we can observe an increasing number of children with limited resources for their recreation. And also observed is the development and commercial exploitation of a model based on the consumption of leisure; far from the promotion of more natural areas for recreation and play. Thus, although recognized the right of access to resources, the situation does not favour the necessary technical and human support that guarantees equal access to them. In connection with the age restrictions, “ludotecas” generally target younger ages, leaving children 10 and older without adequate play spaces and alternatives for preadolescents and adolescents.
- Along with the economic constraints, there are particular difficulties for participating in leisure

activities by hospitalized children.

- ▶ Two positive aspects of interest related to the “ludotecas” are on the one hand, the increased exchange of information between professionals on projects and goals, thus creating a certain consensus on the way in which projects must be developed and on the other, developments that have changed the goals from recreational to a more integral education model.
- ▶ In any case, the limited leisure time left after the school day and homework limit children’s right to play. There continues to be excessive emphasis on theoretical and academic studies in schools, imposing long hours of compulsory school education (including school hours, homework and extracurricular activities related to formal education), which do not allow the enjoyment of a real free time to play.
- ▶ Play time does not appear as a priority for families and is not given the value and legitimacy necessary to be considered an important part of a child’s development. Thus, it should be noted the limited leisure time for families, in part because of the labor and social obligations of parents and the consequent lack of free time to spend with their children. In any case, the concept of reconciling work and family can be confusing: the solutions seem to be costly extracurricular activities; workers do not have the needed flexibility in hours from their companies. Thus, the reconciliation lies with the children instead of with adequate family policies.
- ▶ Recreation proposals for children tend to be similar to those of adults (such as sports, games, crafts and literature), without even being adapted to children. In this sense, investment in cultural activities is clearly greater in the case of the adult population without a balanced supply for children.
- ▶ In the case of sports, there continues to be too much misguided emphasis placed on competitiveness.
- ▶ There is also a noticeable lack of playgrounds and open spaces to meet, with opportunities for self-management and self-organization of the activities.
- ▶ On the other hand, the Spanish Association for Standardization and Certification (Asociación Española de Normalización y Certificación, AENOR), has regulated through numerous quality standards leisure equipment, toys and playgrounds, among other issues. Their standards are voluntary, pending appropriate mandatory legal standards, but they accredit the quality and safety of a particular product, which can be taken into account by local authorities when preparing the terms and conditions of contracts for suppliers. In particular, regarding “ludotecas” they have developed a Technical Committee for Standardization (Comité Técnico de Normalización) and have published a standard (AENOR, 2007) -as a recommendation only-, which gives playgrounds some minimal quality parameters.
- ▶ In general it can be argued that, regardless of the weaknesses that can still be found occasionally in providing this service, “ludotecas” are evolving from a primarily recreational function to a more holistic educational approach.
- ▶ It should be added a noticeable recent sharp increase in such services throughout Spain. This development, however, is still very uneven in the light of available resources in each Autonomous Region, in addition to not always be taken into due consideration the continuity and program monitoring and enforcement of minimum quality requirements. Thus, with respect

to their autonomic deployment we highlight the following Communities: Islas Canarias (it has a strong network of ludotecas, called Ludored, of the Cabildo of Tenerife), Castilla-La Mancha (has experienced great development in recent years and has a larger number of ludotecas than any other Autonomous Community -Comunidad Autónoma, CA- have in mind that it is one of the largest regions in Spain), Cataluña (a pioneer in providing the service, offers equally large number of “ludotecas”, and spends more money than other regions), La Rioja (Logroño has a small network of “ludotecas”), Madrid (despite not being at the top of the list, is recognized for its quality in the profile and training of professionals, their programs also have focus on medium-long term results), País Vasco (has recognized quality projects, especially in Vitoria).

- A negative aspect of growing concern is the fact that sometimes the term “ludoteca” is used to circumvent the law on nursery schools, preschools and kindergartens, concealing day care for 0 to 3 years within a format, which can not be inspected or be held responsible to certain local or autonomous legislation.

## OBSTACLES

### *Found in the carrying out of obligations required by the CRC*

- In the last years there has been a decline in the value attached to the socio-cultural activities, investing less in social and educational areas.
- The proportion of government budget appropriations at national, regional and local levels for culture, sports and arts, reveals that very few resources are devoted to the activities of children. Only through other established budget channels are children’s necessities being handled. It is opportune to note that in this area the national government’s budget is lower than the Autonomous Regions, all together, counting the latter with a sixth or so.
- Noticeably less flattering environments for the development of “ludotecas” are rural areas. On the contrary, especially in cities, there is a lack of public green spaces and game activities suitable for children, in the streets, parks and gardens. This is compounded by poor maintenance of public playgrounds, cited above, resulting in deterioration and which may become a danger.
- Heavy traffic near the play areas.
- Leisure is increasingly individualized (video games, computers, television), despite increased awareness about the benefits of group play.
- Lack of legislation governing the operation of leisure spaces as learning spaces. Especially significant is the lack of regulations governing “ludotecas” in general, causing sectoral regulations at a regional and local level to be the reference. There is also a large variation between Autonomous Regions through various decrees. Thus, while Islas Canarias, Cataluña and País Vasco have their own legislation, Castilla-La Mancha has a pending draft, therefore no specific regulations exist in most parts of Spanish territory. Some of those covered by these regulations are referred specifically to people under age 4, the useful minimum space and minimum qualifications required for professionals, ie, many of

the aspects that differentiate the kindergarten service as educational service to other health care programs.

## RECOMMENDATIONS



### Speaking out loud...

"I like sports, watch TV, play, video games, reading, singing, painting, miniatures, sleeping, playing with the computer, go to dance classes."

- ▶ Developing campaigns to ensure proper use of leisure and entertainment, so necessary in the lives of children and adolescents, which should contribute to the full educational, cultural and social integration of children. This facilitates, among many other issues, relationships and communication between them and their environment, developing critical awareness, creativity and responsibility, besides being the primary vehicle of entertainment, information and training.
- ▶ Increased budget allocation from municipalities for recreation and leisure aimed at children and adolescents, ensuring continuity in time of programs, in the sense that the municipal context plays a crucial role as the closest public space for kids.
- ▶ Establishment of a nationwide regulation with minimum requisites related to spaces for recreation and leisure time destined for children.
- ▶ Adoption of special actions to insure the rights of children to play for specific collectives who require more attention and resources so as to be able to access services and spaces under equal conditions, such as in hospitals and in centers designed to protect or reform. Those cited collectives are children from the ethnic group of gypsies; children of migrant workers (especially when their situation of permanence does not align with legality); children that are unaccompanied foreign minors; children with disabilities. Some of these actions would be access to spaces; existence of special support staff to assure access; training on special education; creation of opportunities for true participation.
- ▶ Conduct studies on play involving parents and children to develop appropriate policies and programs in the field of intergenerational activities.
- ▶ If we consider "ludotecas" for their educational ability, we should consider increasing capacity and reducing access costs of "ludotecas" and leisure/education activities.
- ▶ Creation, maintenance and care of recreational facilities, needs improvement, especially to recover the natural areas where children play ensuring their accessibility and safety. If the child population has a place to play with their friends, participation becomes real, spontaneous, and free. The right to play must be taken into account in urban planning of cities.
- ▶ Reduction of traffic near playgrounds.
- ▶ Providing support to associations working to develop the recreational activities as a tool to promote child and youth associations, especially those associations devoted to leisure and free time.



#### With gender glasses

There are significant gender differences in the perception of free time. On the one hand, girls express have more free time than boys. Also girls, more so than boys, say they play a lot out on the street and quite a lot at home. And finally, girls are more influenced by friends in the choice of extracurricular activities.

## VI. Special protection measures

### Juvenile justice

#### MEASURES

*Adopted as a response to the last observations  
made by the Committee on the Rights of the Child*

- Increased financial and human resources: since 2002 to the present there has been a significant increase in resources for the juvenile justice system, with an increasing number of juvenile courts and personnel for Prosecutors for Children and their technical teams. Security Forces have also increased their number and trained their officials, responsible for dealing with children, and the bar associations have created shifts of specialized lawyers to offer adequate legal assistance. Along with this, the Autonomous Communities (Comunidades Autónomas, CCAA) have increased the amounts allocated to resources and professionals dedicated to the practical implementation of measures imposed by judges.

At judiciary and prosecutor level, the distribution of these resources has been uniform throughout the Spanish territory, as these rely on State bodies. During the implementation of these measures, however, such distribution is heterogeneous in terms of the economic capacity and political interest of each regional administration. Gaps and needs still exist, especially between teams responsible for implementing the alternative measures to the institutionalization and implementation of restorative justice and the implementation of the therapeutic nature in reference to measures internment.

- Adjustments of the law regarding custody and measures provided for crimes of detention: at this point there have been no changes in the way explained in the report of the Committee. Moreover, with the reform suffered by Organic Law (Ley Orgánica, LO) 5/2000 of January 12, which governs the criminal responsibility of minors, and before it entered into force (by LO 7/2000 of December 22, modifying the LO 10/1995 of November, the Criminal Code -Código Penal, CP-, and LO 5/2000 of January 12, which governs the criminal responsibility of minors in connection with terrorism crimes, and LO 9/2000 of December 22, on urgent measures for streamlining the administration of justice), the reforms introduced by the LO 15/2003 of November 25, by amending the LO 10/1995 of November 23, the CP, and LO 8/2006 of December, by amending LO 5/2000, have led to a progressive worsening of measures taken for boys and girls, especially in the case of more serious crimes. In some cases the treatment to children has been tightened compared to the adult criminal system, by establishing aggravating circumstances in cases where these children act in group or allow the participation of the victims during the implementation of measures.
- Training of judges: this training corresponds to the General Council of the Judiciary (Consejo General del Poder Judicial, CGPJ), which in recent years has developed many specialized courses in the field of juvenile justice. Their aim is to allow only those judges who satisfactorily overcome these courses to perform their duties in the Juvenile Courts.

- Increased out-of-court solutions and use of alternatives to detention: since 2002 there has been a marked increase in open-environment measures or alternatives to detention, including supervised release and payment of benefits to the community (Ministry of Education, Social Policy and Sport, Ministerio de Educación, Política Social y Deporte, MEPSYD, 2008). However, there are insufficient resources and professionals devoted to them, especially in rural areas. Also, as previously mentioned, there are significant differences between regional governments regarding the promotion of solutions and targeted measures.

## CHANGES

*Both positive and negative that have taken place since the last report  
New areas of concern*

- With respect to the above noted, the most important positive change comes from increased resources and programs for the rehabilitation and reintegration of young offenders, at both State and Regional Government levels, despite the lack of global statistics.
- On the negative side, note the diversity of models of intervention and inequalities resulting from their location within the country, which is contrary to the principle of non discrimination. In this regard, there are currently no state-level mechanisms that ensure both the establishment of common minimum standards nationwide and the necessary coordination of the regional concerned administrations.
- As a new concern note the implications of the current economic crisis in the juvenile justice field. Regional administrations are already reducing resources allocated to it, suffering especially those programs aimed at pre-employment and re-employment trainings of these young people. This can only exacerbate the fact that the implementation of certain measures is still conditioned by the willingness and capacity of the various CCAA.
- It is also worrying the finding of cases in which, although exceptionally, children are coexisting in the same centers under both protective and reform measures.

## OBSTACLES

*Found in the carrying out of obligations  
required by the CRC*

Some of the main obstacles are the result of:

- The issue of violence and juvenile delinquency can be easily manipulated by the media and has been selfishly used in political debate by the parliamentary groups. This part has mobilized public opinion against the LO 5/2000, promoting the already discussed tightening legal reforms. These reforms were primarily motivated by the social alarm generated with some very concrete facts, but of great violence and media coverage. Although Spanish law has not yet reached the point to lie outside the principles and obligations set by the Convention on the Rights of the Child (CRC), it has meant a move away from them and has diluted some of the content of the LO.



- ▶ In part because of this reported pressure from public opinion, there is a tendency to abuse from custodial sentences (as it has happened in the field of adult imprisonment) at the expense of alternative measures, as well as mediation and conciliation measures. There are significant differences in the allocation of resources among the different CCAA.
- ▶ On the other hand, labor conditions of workers in some centers, together with the absence of common criteria on required professional qualifications, have serious implications on the implementation of certain measures.

## RECOMMENDATIONS



### Speaking out loud...

“A good measure for young offenders would be one in which the work will make them think, relates to the violation and makes them feel useful.”

- ▶ Increasing awareness of international standards issued by the United Nations Organization (UN), especially by the CRC, as well as recommendations adopted for this area in the context of juvenile justice.
- ▶ Promotion of initiatives to sensitize the society at large, including victims, markedly changing the negative perception of LO 5/2000 in some sectors.
- ▶ Promotion of a similar treatment for all girls and boys who are processed by juvenile court with an applicable standard and with available resources, with independence of where the child is in Spanish territory.
- ▶ Establishment of a reliable information system that enables alignment and comparison of the currently existing different tools and sources; and thereby an objective and lifelong track of the reality of the national juvenile justice system.
- ▶ Promotion a research and increased system reform for university training in those directly involved areas of knowledge.
- ▶ Coordination between Public Administrations (Administraciones Públicas, AAPP) and public and private entities involved in the system: the Public Prosecutor responsible for the investigation of facts in criminal proceedings, juvenile court judges responsible for solving the case and controlling imposed measures, and the CCAA responsible for implementing the measures, either directly or through agreements with other public or private non-profit entities.
- ▶ The outsourcing of public ownership services for the implementation of measures should in any case be made under criteria of quality and efficiency, taking into account the value added by institutions of social initiative. In this regard, AAPP (judgeship, prosecution, inspection units, etc.) should strengthen their mechanisms for monitoring and control.

- ▶ Strong support for preventive interventions, from the need of integrated public policies and social initiatives in order to prevent the expulsion of children from the channels and standard resources of socialization, given a greater involvement of the system, in general, to children and adolescents at risk and exclusion.
- ▶ Advances should be made in the use of alternatives to internment and the mechanisms used by restorative justice; this should be done through more resources both material and human. Consider that in rural areas the signing of a higher number of agreements with local entities is necessary for the execution of measures related with carrying out of these services.
- ▶ Regarding detention measures, there is a need of more resources specifically geared to the implementation of therapeutic detention order for children with mental illness or drug dependency.
- ▶ Need to ensure that all taken measures must lead to a proposal for an individual monitoring of children in open environments, including a proposed itinerary of social integration, with a priority implication of social and educational services.
- ▶ Promotion of specialized interventions regarding immigration and gender issues, as well as specific treatment programs for children who have committed sexual assault.
- ▶ Improved centers' personnel working conditions and development of common rules to determine the minimum training requirements.
- ▶ Promotion of the principle of child participation.



**To jot down...**

Legal actions involving educational support services to the community are valued by more than 75% of children as positive actions for the reintegration of juvenile offenders.

## GLOSSARY

- A** AAPP. Public Administrations.  
ADESE. Spanish Association of Distributors and Publishers of Entertainment Software.  
AENOR. Spanish Association for Standardization and Certification.  
AEPD. Spanish Data Protection Authority.  
APRAMP. Association for prevention, rehabilitation and care of prostituted women.  
Art./art. Article.  
AUTOCONTROL. Association for the Self-Regulation of Commercial Communication.
- C** CA. Autonomous Community.  
CC. Civil Code.  
CCAA. Autonomous Communities.  
CE. Spanish Constitution.  
CEMA. State Council of Audiovisual Media.  
CGAE. General Council of Bars and Law Societies of Spain.  
CGPJ. General Council of the Judiciary.  
CIIMU. Institute of Childhood and Urban World.  
CIS. Center for Sociology Research.  
CNTR. Quarterly National Accounts.  
CP. Criminal Code.  
CRC. Convention on the Rights of the Child.  
CSIC. Superior Center for Scientific Research.
- E** EMUMEs. Women Minor Team of the Civil Guard.  
EU. European Union.  
Eurostat. Statistical Office of the European Communities.
- F** FEMP. Spanish Federation of Municipalities and Provinces.
- G** GRPs. Gross Rating Points.  
GRUMEs. Judicial Police Juvenile Groups of the National Police.
- I** ICRC. International Committee of the Red Cross.  
ILO. International Labor Organization.  
INE. National Institute of Statistics.  
INJUVE. National Youth Institute.  
INTECO. National Institute of Communication Technologies.  
IRC. International Rescue Committee.  
ISO. International Organization for Standardization.
- L** LEC. Civil Procedure Law.  
LO. Organic Law.  
LOCE. Organic Law on quality in education.  
LOE. Organic Law on education.

- M** MAEC. Ministry of Foreign Affairs and Cooperation.  
MENAS. Unaccompanied foreign minors.  
MEPSYD. Ministry of Education, Social Policy and Sport.  
MIR. Residents Internists.  
MSPS. Ministry of Health and Social Policy.
- N** NGO. Non Governmental Organization.
- P** PEF. Family meeting points.  
PEGI. Pan European Game Information.  
PENIA. National Strategic Plan for Childhood and Adolescence 2006-2009.  
PNAin. Action Plan for Social Inclusion of the Kingdom of Spain.  
PP. People's Party.  
PSOE. Spanish Socialist Workers' Party.  
PTA. Parent Teacher Association.
- R** RD. Royal Decree.  
RUMI. National Registry of Child Mistreatment.
- S** SCUK. Save the Children United Kingdom.  
SIVE. Intelligent Monitoring System in the Strait.
- T** TC. Constitutional Court.  
TDT. Digital Terrestrial Television.  
TIC. Information and communication technologies.  
TS. Supreme Court.  
TSJ. Superior Court of Justice.  
TV. Television.
- U** UN. United Nations Organization.  
UNHCR. United Nations High Commissioner for Refugees.  
UNICEF. United Nations Children's Fund.
- W** WVI. World Vision International.

## BIBLIOGRAPHY

**Alemán Bracho, C. and others** (2008).

*Los menores con discapacidad en España*. Madrid: Cinca.

Available at: <http://www.convenciondiscapacidad.es/Publicaciones/LosmenorescondiscapacidadenEspaa.pdf>

**Alto Comisionado de las Naciones Unidas para los Refugiados** (2008).

*Directrices del ACNUR para la determinación del interés superior del menor (DIS)* [on line].

Ginebra: Alto Comisionado de las Naciones Unidas para los Refugiados, Mayo 2008.

Available at: <http://www.acnur.org/biblioteca/pdf/7126.pdf> [Consulta: junio de 2009]

**Álvarez, J.C. and others** (2008).

*Los problemas de salud infantil. Tendencias en los países desarrollados*. Esplugues de Llobregat: Hospital Sant Joan de Déu.

Available at: [http://www.faroshsjd.net/adjuntos/125.1-Primer\\_informe\\_Faros\\_def\\_Cast.pdf](http://www.faroshsjd.net/adjuntos/125.1-Primer_informe_Faros_def_Cast.pdf)

**Amnistía Internacional España** (2007).

*Videojuegos 2007: Acceder a violaciones de derechos humanos virtuales, un juego de niños* [on line]. Sección Española de Amnistía Internacional.

Available at: [http://www.es.amnesty.org/uploads/media/Videojuegos\\_2007.pdf](http://www.es.amnesty.org/uploads/media/Videojuegos_2007.pdf) [Consulted on October 2009]

**Aranceta Bartrina, J.** (2008).

*Obesidad infantil: nuevos hábitos alimentarios y nuevos riesgos para la salud. Alimentación, consumo y salud*. Fundació “La Caixa” 2008. [access March 16th 2009]. .

Available at: <http://obrasocial.lacaixa.es/>

**Asociación Española de Distribuidores y Editores de Software de Entretenimiento** (2006).

*Estudio de Hábitos y Usos de los videojuegos 2006* [on line].

Available at: [http://www.adese.es/pdf/InformeUA\\_2006.pdf](http://www.adese.es/pdf/InformeUA_2006.pdf) [Consulted on October 2009]

**Asociación Española de Normalización y Certificación** (2007).

Norma UNE 172401:2007 Ludotecas infantiles. Requisitos generales.

**Asociación para la Prevención, Reinserción y Atención de la Mujer Prostituida** (2008).

*Guía Básica para la identificación, derivación y protección de las personas víctimas de trata con fines de explotación*. Madrid: Asociación para la Prevención, Reinserción y Atención de la Mujer Prostituida.

**Ayala Cañón, L. and others** (et al.). (2006).

*Familia, infancia y privación social*. Colección de Estudios Foessa. Madrid: Cáritas Española, Editores.

**Ayala, L. y Cantó, O.** (2009).

Análisis y propuestas sobre pobreza infantil en España (p.21). *Políticas económicas y pobreza infantil*. Madrid: UNICEF-Comité Español.

**Ballesteros Vicente, C. and others** (2009). (2004).

*II Conferencia de Infancia. Propuestas para una estrategia de promoción de los derechos de la infancia*. España: Plataforma de Organizaciones de Infancia

**Comité de los Derechos del Niño** (2005).

*Observación General n. 6 (2005) Trato de los menores no acompañados y separados de su familia fuera de su país de origen*, CRC/GC/2005/6, [on line], 1º de septiembre de 2005.

Available at: [http://www2.ohchr.org/english/bodies/crc/docs/GC6\\_sp.doc](http://www2.ohchr.org/english/bodies/crc/docs/GC6_sp.doc)

[Consulted on June 2009]

**Comité de los Derechos del Niño** (2002).

CRC/C/15/Add.185 (párr. 14). *Observaciones finales del Comité de los Derechos del Niño a España*. Ginebra: Naciones Unidas.

Available at: <http://www.acnur.org/biblioteca/pdf/1998.pdf> [Consulted on October 13th 2009]

**Consejo de la Unión Europea** (2005).

*Directiva 2005/85/CE del Consejo de 1 de diciembre de 2005 sobre normas mínimas para los procedimientos que deben aplicar los Estados miembros para conceder o retirar la condición de Refugiado*. Bruselas: Diario Oficial de la Unión Europea.

Available at:

<http://eurlex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2005:326:0013:0034:ES:PDF>

[Consulted on September 2009]

**Consejo General de la Abogacía Española** (2007).

*Circular 4/2007 Propuesta de recomendación sobre asistencia jurídica a menores no acompañados* [on line]. Madrid.

Available at:

[http://www.planificacion-juridica.com/media/upload/arxius/documentos\\_icacr/CGAE.pdf](http://www.planificacion-juridica.com/media/upload/arxius/documentos_icacr/CGAE.pdf)

[Consulted on October 2009]

**Convención sobre los Derechos del Niño** (1989).

**Defensor del Pueblo** (2009).

*Centros de protección de menores con trastornos de conducta y en situación de dificultad social*. Madrid: Defensor del Pueblo.

Available at:

[http://www.defensordelpueblo.es/documentacion/informesmonograficos/informe\\_menores\\_09.zip](http://www.defensordelpueblo.es/documentacion/informesmonograficos/informe_menores_09.zip)

[Consulted on October 2009]

**Defensor del Pueblo** (2008).

*Informe anual 2007*. Madrid: Defensor del Pueblo.

Available at: <http://www.defensordelpueblo.es/index.asp?destino=informes1.asp>

[Consulta: octubre de 2009]

**Defensor del Pueblo** (2007).

*Violencia escolar: el maltrato entre iguales en la Educación Secundaria Obligatoria 1999-2006*.

Madrid: Defensor del Pueblo.

Available at: <http://www.defensordelpueblo.es/index.asp?destino=informes2.asp>

[Consulted on October 2009]

**Defensor del Pueblo** (2005).

*Informe sobre asistencia jurídica a los extranjeros en España: edición abreviada para prácticos.* Madrid: Defensor del Pueblo.

**Del Río Álvarez, M. and others** (2005).

*Programación Infantil de Televisión: Orientaciones y Contenidos Prioritarios.* España: Instituto Oficial de Radio y Televisión. RTVE.

**Espinosa Gil, L. and others** (2007).

Marco social y demográfico considerando de forma específica el enfoque de género, en *Informe Salud, Infancia, Adolescencia y Sociedad* (SIAS), nº. 6: Aspectos relativos a la salud de la infancia y de la adolescencia en España. Sociedad de Pediatría Social.

**European Commission** (2008), pp. 146 - 149.

*Child Poverty and Well-Being in the EU-Current status and the way forward.* Luxembourg: Office for Official Publications of the European Communities.

**Fundación ANAR** (2008).

*Informe anual del teléfono del menor* [on line].

Available at: [http://www.anar.org/docs/informa\\_anual\\_2008.pdf](http://www.anar.org/docs/informa_anual_2008.pdf) [Consulted on October 2009]

**Fundación ANAR** (2007).

*Informe anual del teléfono del menor.* Madrid: Fundación ANAR.

**Fundación Yehudi Menuhin España** (2009).

*Memoria de actividades 2008* [on line]. Madrid: Fundación Yehudi Menuhin España.

Available at: <http://www.fundacionmenuhin.org/memoria08.pdf> [Consulta: octubre de 2009]

**García Fuentes, M. and others** (2007).

*Obesidad infantil en España. Epidemiología, comorbilidades y prevención con especial referencia a la población adolescente.* En Informe Salud, Infancia, Adolescencia y Sociedad (SIAS), nº 6: Aspectos relativos a la salud de la infancia y de la adolescencia en España. Sociedad de Pediatría Social.

**Human Rights Watch** (2007).

*Responsabilidades no bienvenidas. España no protege los Derechos de los menores extranjeros no acompañados en las Islas Canarias.* New York: Human Rights Watch.

**International Committee of the Red Cross and others** (2004).

*Inter-Agency Guiding Principles on Unaccompanied and Separated Children.* Geneva: International Committee of the Red Cross. Central Tracing Agency and Protection Division.

**Instituto de Infancia y Mundo Urbano** (2007).

*La infancia en cifras (2).* Colección Observatorio de la Infancia nº 5. Madrid: Ministerio de Trabajo y Asuntos Sociales. Subdirección General de Información Administrativa y Publicaciones.

**Instituto Nacional de Estadística** (2009).

*Anuario Estadístico de España 2009.* Madrid: INE.



**Instituto Nacional de Estadística** (2008).

*Encuesta sobre Equipamiento y Uso de Tecnologías de Información y Comunicación en los Hogares.* [on line].

Available at:

<http://www.ine.es/jaxi/menu.do?type=pcaxis&path=/t25/p450/a2008&file=pcaxis>

[Consulted on October 2009]

**Instituto Nacional de Estadística.**

*Población por edad (año a año) y sexo.* Base de datos [on line] del INE.

Available at:

<http://www.ine.es/jaxi/menu.do?type=pcaxis&file=pcaxis&path=%2Ft20%2Fe245%2Fp04%2F%2Fa2008>

**Instituto Nacional de Estadística.**

*Encuesta de discapacidad, autonomía personal y situaciones de dependencia.* EDAD 2008. Nota de Prensa de 4 de noviembre de 2008.

**Instituto Nacional de Tecnologías de la Comunicación, Agencia Española de Protección de Datos** (2009).

*Estudio sobre la privacidad de los datos personales y la seguridad de la información en las redes sociales online* [on line].

Available at: <http://www.inteco.es/file/1000275028> [Consulted on October 2009]

**Laparra, M. and Ayala, L.** (2009).

*El sistema de garantía de los ingresos mínimos en España y la respuesta urgente que requiere la crisis social.* Colección de Estudios Foessa. Madrid: Cáritas Española, Editores.

**López Blasco, A. and others** (2008).

*Informe Juventud en España 2008.* Madrid: Edición Injuve y on line.

Available at:

<http://www.injuve.migualdad.es/injuve/contenidos.downloadatt.action?id=725387112>

**Ministerio de Educación, Política Social y Deporte** (2008).

*Estadística básica de medidas impuestas a los menores infractores nº 6.* Madrid: Secretaría General Técnica. Subdirección General de Información y Publicaciones.

**Ministerio de Trabajo y Asuntos Sociales** (2008).

*III y IV Informe de aplicación de la Convención sobre los Derechos del Niño en España.* Madrid: Dirección General de las Familias y de la Infancia. Secretaría de Estado de Servicios Sociales, Familias y Discapacidad.

**Ministerio de Trabajo y Asuntos Sociales** (2008).

*Informe de seguimiento de la aplicación del PENIA en el periodo 2006-2007.* Madrid: Dirección General de las Familias y de la Infancia. Secretaría de Estado de Servicios Sociales, Familias y Discapacidad.

**Ministerio de Trabajo y Asuntos Sociales** (2006).

*Plan Estratégico Nacional de Infancia y Adolescencia 2006-2009.* Madrid: Subdirección General de Información Administrativa y Publicaciones.

**Méndiz Noguero, A.** (2005).

La juventud en la publicidad. *Revista de Estudios de Juventud.* Nº 68 Jóvenes y medios de comunicación.

**Observatorio Europeo de las Drogas y las Toxicomanías** (2007).

*Informe anual 2007: el problema de la drogodependencia en Europa*. Luxemburgo: Oficina de Publicaciones Oficiales de las Comunidades Europeas.

Available at:

<http://www.unad.org/upload/25/98/InformeObservatorioEuropeo2007.pdf>

**Save the Children, Alto Comisionado de las Naciones Unidas para los Refugiados** (2004).

*Declaración de buenas prácticas*. [on line] (Tercera Edición).

Available at:

<http://www.separated-children-europe-programme.org/index.html> [Consulted on July 2009]

**United Nations High Commissioner for Refugees** (2006).

*Guidelines on International Protection No. 7: The Application of Article 1A(2) of the 1951 Convention and/or 1967 Protocol Relating to the Status of Refugees to Victims of Trafficking and Persons At Risk of Being Trafficked*, 7 April 2006, HCR/GIP/06/07. Geneva: United Nations High Commissioner for Refugees.

Available at:

<http://www.unhcr.org/refworld/docid/443679fa4.html> [Consulted on September 2009]

**Vidal, F. and Mota, R.** (2008).

*Encuesta de infancia en España 2008*. Cuadernos Fundación SM nº 11. Madrid: Fundación SM.

## PLATAFORMA DE INFANCIA (Spanish Child Rights Coalition)

We are an alliance of nonprofit entities, plural, supportive, democratic, and independent from the political and religious viewpoint. Plataforma de Infancia was legally constituted in 1997 to combine the efforts of state-level organizations working for children and create a space for coordination to promote initiatives for children and adolescents in Spain.

The framework of the Plataforma de Infancia is the Convention on the Rights of the Child. This Convention was adopted by the General Assembly of the United Nations on November 20th 1989 to protect the rights of every human being below the age of eighteen, considering that they should not be treated as objects of charity, but subjects of law with specific needs and interests.

### OUR MISSION

The mission of this team of social organizations working in Spain is to protect, promote and defend the rights of children and adolescents under the United Nations' Convention on the Rights of the Child.

### WHAT DO WE DO?

- ▶ **We strengthen** the dialogue capacity of childhood institutions with public authorities and society at large, and contribute to the design of policies dedicated to the welfare of children.
- ▶ **We mobilize** the society to a better knowledge and respect for the rights of children.
- ▶ **We promote** the strengthening of associations of childhood, by fortifying links between member organizations, other entities and networks of associations.
- ▶ **We contribute** to build platforms for children at autonomous level by promoting coordination and participation between associations.
- ▶ **We have an influence on** the design of policies for children in the international arena, notably through participation in several key areas in the European Union and Latin America.

### OUR VALUES

- ▶ **EQUALITY** for all.
- ▶ Promotion of child **PARTICIPATION** at different stages of development.
- ▶ **COOPERATION** between social organizations to join efforts in achieving objectives.
- ▶ Ethical and professional **COMMITMENT** to the proper performance of our work.
- ▶ **TRANSPARENCY** and **ACCOUNTABILITY** in financial control and resource management.
- ▶ **QUALITY** in implementing programs and services.
- ▶ **SENSITIVITY** to events that adversely affect the rights of children and girls.

## WE ALL WORK TOGETHER FOR THE RIGHTS OF CHILDREN



## MEMBER ORGANIZATIONS

Aldeas Infantiles SOS España • Asociación Andaluza de Centros Católicos de Ayuda al Menor - ACCAM • Asociación Centro Trama • Asociación Colectivo La Calle • Asociación Juvenil "Juventud y Medios de Comunicación" - JUMECO • Asociación MACI • Asociación Mundo Infantil • Asociación Mensajeros de la Paz • Asociación Navarra Nuevo Futuro • Asociación Valenciana de Ayuda al Refugiado - AVAR • Caritas Española • Comisión Española de Ayuda al Refugiado - CEAR • Confederación de Centros Juveniles Don Bosco de España • Confederación Española de Puntos de Encuentro Familiar - CEPEF • Cruz Roja Juventud • Diaconía • DIDANIA, Federación de Entidades Cristianas de Tiempo Libre • Esplais Catalans - esplac • Federación de Asociaciones para la Prevención del Maltrato Infantil - FAPMI • Federación de Asociaciones de Scouts de España - ASDE • Federación INJUCAM para la Promoción de la Infancia y la Juventud • Fundación ADSIS • Fundación ANAR • Fundación Balía por la Infancia • Fundación Diagrama • Fundación Esplai, Acción Social, Educación y Tiempo Libre • Fundación Internacional O'Belén • Fundación Meniños • Fundación Menudos Corazones • Fundación Plan Internacional España • Fundación Plataforma Educativa • Fundación Save the Children • Fundación UNICEF - Comité Español • Fundación Yehudi Menuhin España • Infancia sin Fronteras • Juventudes Socialistas de España • Kamira. Sociedad Cooperativa de Iniciativa Social • Liga Española de la Educación y la Cultura Popular - LEECP • Movimiento Junior de Acción Católica • Movimiento Scout Católico • Organización Juvenil Española • Plataforma de Organizaciones de Infancia de Madrid • Proyecto Solidario • Senda. Movimiento Senda, Desarrollo y Educación España - MSDE • Taula per la Infancia i l'Adolescència a Catalunya - TIAC • YMCA España



We are an association made up of social organizations dedicated to children.

We are a nonprofit organization and declared of public good.

We are plural, supportive, democratic and independent of any political or religious organization.

*their voice is ours*

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