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EUROPEAN SOCIAL CHARTER **(REVISED)**

Comments submitted by
the Save the Children Spain Foundation
on the 1st National Report on the implementation of the
European Social Charter (revised)

Report registered by the Secretariat
on 29 June 2023

CYCLE 2023



**SUBMISSION BY THE SAVE THE CHILDREN SPAIN FOUNDATION TO THE
EUROPEAN COMMITTEE OF SOCIAL RIGHTS IN THE MONITORING CYCLE OF
SPAIN'S COMMITMENTS UNDER THE REVISED EUROPEAN SOCIAL CHARTER
(ARTICLE 21 OF THE EUROPEAN SOCIAL CHARTER AND 21A OF THE
COMMITTEE'S RULES)**

INTRODUCTION

Save the Children Spain (SCE) submits this report as civil society contribution to the periodic monitoring procedure of the Spanish State's compliance with its obligations under the European Social Charter. It is submitted in accordance with Article 21 of the European Social Charter and Article 21A of the Committee's Rules. The purpose of this submission is to provide the Committee with complementary and alternative information to that provided by the State in its report submitted on 16 January 2023. The information provided is mostly drawn from studies and reports that the Save the Children Spain Foundation has carried out during the years covered by the reference period (2018 to 2021). It refers only to articles 16, 17 and 31 of the European Social Charter and, within them, only to certain aspects about which the Foundation believes it can supply additional or alternative information that will allow the Committee to better assess the degree of compliance with the aforementioned articles in Spain.

In the report, each of the three articles mentioned above is analysed according to the following outline:

1) First, the relevant article of the Charter is stated and the specific aspects on which the report will focus are indicated.

2) It then **identifies the concerns** that the European Committee of Social Rights highlighted in its 2019 Conclusions (Conclusions XXI-2), the latest issued in respect of the articles of the Charter concerned. The State should have provided, in its 2023 report, a full response to these concerns.

3) The **information that the State presents in relation to the Committee's concerns in its 2023 report is contrasted**, highlighting and identifying whether or not the State responds to the Committee's concerns. This is done to verify whether the information provided by the State discloses compliance or non-compliance with the European Social Charter, or whether the State simply fails to provide the information requested by the Committee.

4) Next, the report highlights **Save the Children's assessment** of these issues, carrying out a comprehensive analysis of the sources of information provided and worked on over the years with specialists from the SCE Foundation.



5) Finally, the report draws the corresponding **conclusions**.

ANALYSIS OF ARTICLE 16 OF THE EUROPEAN SOCIAL CHARTER

Article 16 – The right of the family to social, legal and economic protection.

"With a view to ensuring the necessary conditions for the full development of the family, which is a fundamental unit of society, the Parties undertake to promote the economic, legal and social protection of family life by such means as social and family benefits, fiscal arrangements, provision of family housing, benefits for the newly married and other appropriate means."

Of the various aspects covered by this article, this report will focus on the following:

- A. Early Childhood Education and Care: Childcare facilities**
- B. Family benefits: Level of benefits**
- C. Housing: Measures in favour of vulnerable families: social housing stock**
(discussed under Art. 31)
- D. Evictions** (discussed under Art. 31)

A. Early Childhood Education and Care (ECEC): Childcare facilities

Remarks by the Committee in its 2019 Conclusions

With regard to early childhood care, and in particular childcare, the Committee has found that the existing situation is broadly in line with the European Social Charter. The coverage rates of the places offered in educational areas exceed the targets set by the European Union for 2010, i.e. 33% for children under three years of age and 90% for children between three years of age and the age of compulsory schooling.¹

However, the Committee also noted that there was an insufficient number of places offered in public childcare facilities, and therefore asked for the next State report to assess the extent to which the supply of places corresponded to the demand, indicating the number of applications rejected due to lack of places.

State response

In its 2023 report, the State states that the modification of Organic Law 2/2006 of 3 May 2006 on education, brought about by Organic Law 3/2020, proposes a reform of the education system, placing vulnerable people at the centre of political action, especially children and adolescents in vulnerable situations, **promoting quality and equity in education**.

¹ Report on the 2019 Conclusions of the European Committee of Social Rights - Conclusions XXI-2 (2019), p. 26.

Some of the axes of the reform focus on the **right to inclusive and quality education and free education**. The reform also proposes certain guidelines to achieve equity in education, i.e. applicable to students with special needs in terms of school support, compensation of inequalities and prevention of school segregation.

The State also reports on a programme for the creation of 60,000 new childcare places to be distributed among the Autonomous Communities and to be implemented until 2024. SCE welcomes the boost to the creation of new places, but invites the Committee to monitor the situation beyond the numbers, since it is not only quantity that matters, but also quality, as will be discussed below.

Save the Children Spain's assessment

Access to ECEC in the ages from 0 to 3 is particularly relevant insofar as it stimulates children's development, capacities and skills and, furthermore, allows for a better balance between employment and child-rearing time. In this regard, the work carried out by the Save the Children Foundation raises the following questions:

1. Some advantages for children entering the school system in their early years

Some of the advantages observed when children have access to early and quality education, especially in the first cycle, is that it improves the development of children's cognitive and socio-emotional skills and translates into better schooling later on. There is better school performance, as those who have attended the first cycle of early childhood education show 17 points better performance in reading than those who only attended the second cycle². It reduces repetition rates, as shown by the extension of the number of years of pre-primary education operated the 1990 Organic Law on the General Organisation of the Spanish Education System, which halved the probability of repeating a grade in primary school.³ Finally, it reduces the risk of dropping out of school, as attending school during childhood reduces the risk of early school leaving.

2. Universal access, free education or quality education?

Unlike other levels of education, in the case of schools offering 0-3 years education, **the fact that they are public does not mean that they are free of charge**.

The State, in its legislative reform, contemplates the objective of free ECEC for children in a vulnerable socio-economic situation. It also states that education authorities must implement measures and resources that allow for effective free education. However, a legal entitlement to an ECEC place does not exist for

² Report "Donde todo empieza. Educación infantil de 0 a 3 años para igualar oportunidades" (Where it all begins. 0-3 years early childhood education to obtain equal opportunities), Save the Children Spain, 2019, p. 12.

³ Ibid, p. 12 and sources cited therein.



children under three years of age. In addition, beyond **free education, the State must guarantee the quality of education** and ensure that it is effectively accessible to children and adolescents in vulnerable situations.

Many regional governments are moving towards free public ECEC. As long as there is no universality and quality, which is the priority, and a considerable part of the supply remains private, SCE considers that free public childcare in itself will not represent a measure of progress that would allow the most vulnerable children and adolescents to have access to quality education in order to compensate for inequalities. In a context in which upper and middle classes are those with a better access to education *per se*, guaranteeing only free education can even be regressive if enough places and quality are not ensured as well.

3. Lack of access to the right to education for vulnerable children.

In recent years, there has been a strong growth in the enrolment of children in early ECEC, but this growth is unequal and iniquitous, as the majority of children in vulnerable situations do not have access to the school system.

The 0-2 years school enrolment rate has doubled in the last ten years, from 17.8% in 2006-07 to 36.4% in 2016-17. However, according to SCE's 2019 report, more than 800,000 children in vulnerable situations had not started ECEC.⁴ Only 31% of children with mothers having completed the Compulsory Secondary Education (ESO) accessed early education, compared to 50% of mothers who have held a University degree. Sons and daughters of Spaniards enrolled 20 percentage points more often than the children of migrants from outside the EU. Only 26% of poor children were enrolled compared to 63% of children from the upper classes. Although single-parent families have similar levels of access and support as the rest, their basic needs are more often unmet and they face the barrier of not being able to share or delegate care to a second parent.⁵

In this sense, and as a result of a recent, non-representative research study carried out by Save the Children Spain, the responses of families supported by this Foundation show that the **enrolment rate of children (0-3)**⁶ doubles when their mothers are employed (70%) compared to inactive mothers (33%). The fact that children and adolescents live in single-parent families, where activity rates are significantly higher than in the rest, increases the attendance rate of children (0-3) by 23 percentage points (71%) with respect to those living in two-parent families (48%) and 31 points with respect to extended families (40%).

⁴ Ibid, p. 28.

⁵ Ibid, p. 51.

⁶ Report "La garantía infantil a examen. Situación de la infancia vulnerable participante en los programas de Save the Children y sus familias (principales resultados)" (The European Child Guarantee under review: The situation of vulnerable children participating in Save the Children programmes and their families (main results)), Save the Children Spain, 2022, p. 9.

In addition, disadvantaged families face non-financial impairments such as rigid opening hours of ECEC facilities, admission criteria that benefit employed households, lack of information and awareness and bureaucratic hurdles.

4. Lack of sufficient regulation and insufficient budget

One of the causes of the lack of access to education for children in their first years of life is the **lack of sufficient and clear regulation in terms of the budget** available to them. The lack of budget and funding at this stage of schooling has led to territorial inequalities and a decrease in the quality of education provided to children from 0-3 years of age. For every public euro spent on pre-school education for 0-3 year olds, 1.88 euros per pupil are spent on secondary education and 2.60 euros per pupil at University level. Spain is one of the European countries where the greatest burden of expenditure on early years education is borne by families, only comparable to the United Kingdom and far above the European average. In addition to the limited public provision, ECEC is channelled through the private sector and, in the absence of public investment, it is families who bear the cost at their own expenses.⁷

The absence of minimum regulation, quality indicators and evaluations, in contrast to in other stages of education, has had a direct impact on the quality of early education. The ratio of children per ECEC staff member at the age of two is the highest in the EU. The qualifications requirements for accessing and exercising teaching positions are the lowest of all levels in the education system, salaries are low, the supply is mostly private or privately managed (but State-funded), with professionals in precarious conditions, and without access to adequate training. There are also insufficient material resources to support many nursery schools, which has resulted in high costs for those families who do manage to access them. As a result, all the above-mentioned factors have led to greater inequality.⁸

Finally, it is important to note that inequality not only affects families, but also regions, with some of them showing much higher enrolment rates than others.

Conclusions

Save the Children Spain contends that, after the detailed analysis in the previous sections, it is possible to conclude that **the education of children in early childhood, that is, from 0 to 3 years of age, is still a unpaid debt of the Spanish State.**

Firstly, education must be of quality, beyond the fact of being for free. Even leaving the question of the costs aside, access to education for children at this stage of their

⁷ Report "Where it all begins: Early Childhood Education 0-3 years to equalise opportunities", Save the Children Spain, 2019, p. 85. Data extracted from the Ministry of Education and Vocational Training, 2019.

⁸ See the Report 'Where it all begins: Early Childhood Education 0-3 years to obtain equal opportunities'.

lives is not always satisfactorily covered and, for many families, simply inaccessible. For those who manage to access it, education is not always of the expected quality.

Families in vulnerable situations do not access or access to a lesser degree for various reasons:

One of the reasons for this is economic, as State support is insufficient and the costs are unaffordable for these families. In contrast to other school stages, in this first stage there is a greater absence of the State, as the budget allocated to them is very low in relation to the number of children seeking access to the early childhood education system. Almost 3 out of every 10 households in the poorest 20% of the population do not have any subsidies and pay the full cost.⁹

On the other hand, another reason is the discrimination suffered by many families in a situation of vulnerability due to their condition as such, as the admission processes and deadlines are complex and unsupported, which makes access difficult for families who are not aware of the processes or the language. Likewise, the process for obtaining a vulnerability report by the social services, which is required in order to access certain types of aid, stigmatises families. In the same sense, the criteria that prioritise families with both parents working, on a regular and stable basis, put the most vulnerable families, who do not have such a situation, at disadvantage.¹⁰

Another of the indicators to be taken into account is the number of places offered compared to the greater demand that exists, which is mostly represented by families in a situation of vulnerability. Although SCE does not have the exact number of places offered and the number of applications rejected due to lack of places in Spain as a whole, there is no legal entitlement to an ECEC place for children under three years of age in Spain, in spite of EU recommendations in this sense,.

On the other hand, **in terms of social benefits**, the fact that a higher percentage of vulnerable families are unable to access them involves a further obstacle to accessing public childcare. These families are already excluded from the system due to the rigidity of the selection criteria, and to the absence of resources to afford admission and support for their children in the education system.¹¹ In these families, access to early childhood education may be postponed, because they prioritise other basic needs.

Finally, there is often a lack of awareness of the existence of benefits. The most vulnerable families are often unaware of the financial aid available, or it is insufficient and does not cover all the costs of schooling. Thus, families prefer that

⁹ SCE report 'Where it all begins. 0-3 early childhood education to obtain equal opportunities', Save the Children Spain, 2019, p. 88.

¹⁰ Ibid, p. 43.

¹¹ Ibid.

their children remain at home in the care of the parent who does not work regularly - most of whom are women - due to the lower cost for the family economy.

Save the Children Spain contends that, for the existence of an equitable, inclusive and quality education, some essential requirements must be met, such as: 1) The availability of public places in sufficient numbers and close to the places where families live, especially for the most vulnerable families; 2) Their affordability, with sustainable financing, reasonable prices and free of charge for those who cannot afford these costs; 3) Accessibility, in terms of admission criteria and processes that must be simple, inclusive and supported; 4) Flexibility and inclusion in the supply of places, 5) Integration into the education system and articulation with other fundamental services for children.

SCE invites the European Committee of Social Rights to take this analysis into account when assessing the situation in Spain and making its recommendations in future rounds.

B. Family benefits: Level of benefits

Introduction

Family benefits, as they stood until 2019, were considered by the Committee to be insufficient for a significant percentage of families requiring them.

This section discusses the evolution of family benefits until then, changes brought about by the adoption of the Minimum Income Scheme, and whether or not this has contributed to lowering child poverty rates.

Concerns of the Committee in its 2019 Conclusions

The Committee considered in its 2019 Conclusions that family benefits were notoriously inadequate. This assessment concerned the now extinguished allowance per dependent child.¹² The amounts of the benefit were 291 euros per year. Royal Decree-Law 8/2019¹³ established new amounts of 341 euros per year and 588 euros per year for families in extreme poverty. The Committee highlighted that, according to the Ministry's data, family benefits represented only 2% of the equivalent average monthly income in 2017.

¹² The extinction refers only to new applications. Note, however, that the allowance is still in force for children that were entitled to it prior to the introduction of the MIS and whose families did not apply for it. New applications can be made in every case on behalf of children under the age of 18 with a disability equal to or above 33%.

¹³ Royal Decree-Law 8/2019, of 8 March, on urgent measures for social protection and the fight against precariousness in working time, Article 2.

As highlighted by the Committee, this benefit was clearly insufficient and did nothing to address the serious problem of child poverty in Spain, exacerbated by the economic crisis. Indeed, the Committee found in 2019 that, according to the statistics available at the time, families with dependent children were more likely to have an income below the poverty level, with a poverty rate of 24% for two-adult families, rising to 41% for single-parent families, most of which were headed by a single mother.¹⁴

In addition, the Committee requested the State to confirm, in its next report, that there was no disproportionate requirement in relation to the period of legal residence required to qualify for these benefits.

The Committee therefore considered in 2019 that, in relation to the level of benefits - the allowance for each dependent child - the situation in Spain was not in conformity or adequate under the Social Charter and requested information on the amounts in the next State report.

The State's response in its 2023 report

In its 2023 report, the State reported that, in May 2020, with effect from June of the same year, the Minimum Income Scheme (MIS)¹⁵ was introduced as a monetary, non-contributory benefit with the aim of alleviating the economic impact of the pandemic among Spanish families most in need. Save the Children Spain believes that this economic benefit represents important progress, and that it has had a significant impact on the fight against extreme child poverty.

The State report explains that, as of 1 June 2020, the allowance for dependent children under the age of 18 with no disability or with a disability of less than 33% was abolished. This allowance was replaced, first, by the transitional Minimum Income Scheme benefit and, as of 1 January 2023, by the definitive Minimum Income Scheme benefit, provided that the eligibility requirements are met and that applicants submit their applications by 31 December 2022.

The State also reports that applications for child dependent allowances prior to 1 June 2020 continue to be governed by the regulations in force at the time of their submission, which provide, in this case, for the condition of not receiving income in excess of a contribution set by the General State Budget Act. The benefits for a dependent child under or over 18 years of age with a disability still exist and their amounts have been updated in 2022, as the State reports, although this update is already outside the reference period. In this report, Save the Children Spain will not analyse these benefits and will focus on the Minimum Income Scheme.

¹⁴ European Committee on Social Rights, Conclusions 2019 on Spain, p. 24.

¹⁵ Law 19/2021, of 20 December, establishing the Minimum Income Scheme, available at the following link <https://www.boe.es/buscar/act.php?id=BOE-A-2021-21007#:~:text=The%20present%20Law%20has%20for%20vulnerability%20because%20of%20lack%20of%20resources.>

The Minimum Income Scheme is a benefit that aims to prevent the risk of poverty and social exclusion of people living alone or in a cohabitation, and who do not have basic financial resources. It seeks to protect single-parent households in particular by means of a single-parent supplement equivalent to 22% of the monthly amount of a single person's non-contributory retirement pension.

It also aims to protect children as a matter of priority, with an additional child allowance. Entitlement to the child allowance is limited to families under income and net assets thresholds. The child allowance consists of a monthly supplement for each child in a household, which is determined according to age intervals.

Save the Children Spain's assessment

Although Save the Children Spain, in general terms, has assessed positively the introduction of the MIS, it has also pointed out some important shortcomings.

The MIS has been a great step forward in the fight against severe poverty (40% income threshold), as it was intended to reach 850,000 households, half of them with children, and 4 out of every 5 people living in severe poverty.¹⁶ According to the most recent data, this benefit has effectively reached 611,029 households and 1,752,467 individuals, according to statistics published by the National Social Security Institute (INSS) up to the end of March 2023. This benefit has had a special impact on the economic conditions of families with children because, of the total number of beneficiaries, 43% are children and adolescents (755,752). Moreover, almost of households 67% include at least one child or adolescent (408,469).¹⁷

In this regard, it is important to note that SCE produced a report in July 2020¹⁸ that estimated the impact of the COVID-19 health crisis and its direct effect on child poverty rates. The report concluded that the child poverty rate would increase up to 33% by 2021, affecting almost 2.7 children and adolescents, if urgent policies and targeted economic investments were not implemented to counteract the situation.

While acknowledging its positive impact, an assessment of the MIS as of mid-2023 should highlight its ineffectiveness to counterbalance disproportionately high poverty rates in Spain. This is due to two reasons: coverage and amount.

In terms of coverage, as found out in 2021, 29.3% of households below the poverty line could not access this benefit, of which 1 in 3 households were in a situation of severe poverty (slightly more than 4 million in Spain), because they did not meet the requirements for receiving this benefit. **The most worrying aspect of this is**

¹⁶ Report "Infancia en reconstrucción: medidas para luchar contra la desigualdad en la nueva normalidad" ("Children under Reconstruction: Addressing Inequality in the New Normal"), Save the Children Spain, 2020, p. 11.

¹⁷ Ministry of Inclusion: Press release "Los beneficiarios del Ingreso Mínimo Vital superan ya los 1,75 millones" ("Minimum Income Scheme beneficiaries now exceed 1.75 million"), April 2023, available at the following link <https://www.inclusion.gob.es/web/guest/w/los-beneficiarios-del-ingreso-minimo-vital-superan-ya-los-1-75-millones>.

¹⁸ Report "Children under Reconstruction: Addressing Inequality in the New Normal", pp. 1-2.

that many of the families that did not meet the conditions or requirements for accessing the benefit included dependent children and adolescents - around 35% of households below the poverty line - that is to say, approximately 180,000 households.¹⁹

According to a more recent report, which falls outside the reference period, based on surveys of around 1,200 vulnerable families supported by SCE's programmes, only 17% of the families surveyed received the MIS. Approximately 2 out of every 5 families surveyed had applied for it. Of this total, less than half (42%) received it as of 10 June 2022, while 53% of the applications had been rejected. As a result, only 17% of the surveyed families are MIS recipients (covering 18% of children). Families applying for MIS have an average income 21% lower than those who did not apply. This could be explained not only by the MIS income limits but also by the fact that 9% of non-MIS claimants opted for and received other benefits such as regional minimum income schemes and/or child benefits.²⁰

Thus, up to 1/3 of eligible families - with incomes below the MIS threshold - and who do not receive minimum income or childcare allowances **have not applied for the MIS.**²¹ Although the referenced study by Save the Children Spain is not representative, and neither the reasons why families did not apply for the MIS, nor the reasons for refusals, were investigated, Save the Children Spain believes that these data provide evidence for substantial challenges in access to the benefit (non take-up). SCE therefore invites the Committee to take an interest in this issue in future rounds of monitoring, and to recommend that the State pay special attention to it.

Another challenge regarding access is the requirement of legal residence for at least one year prior to the submission of the application (Article 10.1.a) of Law 19/2021, which establishes the Minimum Income Scheme). At this point, the Committee's case law on Article 13(1) of the European Social Charter and its personal scope of application should be recalled. According to this jurisprudence, the interpretation of the Charter cannot lead to violations of human dignity or of the rights to life or to physical and moral integrity, with the consequence that people, and especially children, cannot be left completely unattended, even if they are in an irregular situation. However, children in an irregular situation who are in the care of their parents (who are most likely in an irregular situation as well) do not have the possibility of benefiting from the Minimum Income Scheme, a benefit aimed precisely at "guaranteeing a minimum level of income" (article 3.a) of Law

¹⁹ This was highlighted in the amendments proposed by Save the Children Spain to the draft law establishing the Minimum Income Scheme, which was based on the earlier Royal Decree-Law 20/2020. The document proposing the amendments was not published, but it can be made available to the Committee upon request.

²⁰ See the report "La Garantía Infantil a Examen: La situación de la infancia vulnerable participante en los programas de Save the Children y sus familias (informe completo)" ("The European Child Guarantee under Review: The Situation of Vulnerable Children Participating in Save the Children's Programmes and their Families (full report)"), Save the Children Spain, 2022, p. 22.

²¹ Ibid, p. 13.

19/2021). Therefore, in a situation of poverty, children in families in an irregular situation will be deprived of the protective action of the Minimum Income Scheme, with a risk to their most fundamental rights.

As regards the amount of benefit, it should be recalled that Article 13 of the European Social Charter, interpreted by the Committee in its Conclusions and Decisions on collective complaints, requires social assistance benefits to reach 50% of the median equivalised income calculated by Eurostat. This was €15,892 per year for Spain in 2021.²² 50% of this figure would therefore be €7,946 per year. The Minimum Income Scheme benefit for a single person in 2023 is €6,784.44 per year,²³ after the 15% increase introduced in 2022 to respond to the economic consequences of the war in Ukraine.²⁴ This is a difference of over €1,100 compared to what it should be. For the years within the reference period when the MIS was already in force, the amount of the benefit was even lower.

Finally, the fact that the income threshold to access benefits is just below the extreme poverty line results in no significant change in poverty rates. Notwithstanding this, the new benefit has improved the conditions of beneficiaries even if this has not translated into exiting their poverty status. Also, a counterfactual scenario without the MIS would have resulted in an even sharper increase of poverty and child poverty rates.

From the perspective of children, it is important to note that Law 19/2021 provides for a supplement to the Minimum Income Scheme benefit for children. It targets households which include children (Article 11.6) and the amounts are established in Article 13.2.e): 100 euros per month for children under the age of three, 70 euros per month for children over three and under six, and 50 euros per month for children over six and up to the age of 18. These amounts are currently increased by 15% as a temporary measure for MIS recipients only. Save the Children Spain welcomes the creation of this supplement, which did not initially exist. However, its configuration runs contrary to Save the Children Spain's evidence on the cost of parenting. According to our calculations, the costs of parenting increase with the age of children. In 2022, the figures were as follows: 556 € per month for children aged 0-3, 610 € for children aged 4-6, 701 € for children aged 7-12 and 736 € for children aged 12-17.²⁵ It follows that the child allowance should increase (and not decrease) with age.

²² [Eurostat Data Browser: Mean and Median Income by age and sex – EU-SILC and ECHP surveys, available at https://ec.europa.eu/eurostat/databrowser/view/ilc_di03/default/table?lang=en](https://ec.europa.eu/eurostat/databrowser/view/ilc_di03/default/table?lang=en)

²³ Information provided by the Spanish Social Security at: <https://www.seg-social.es/wps/portal/wss/internet/Trabajadores/PrestacionesPensionesTrabajadores/65850d68-8d06-4645-bde7-05374ee42ac7/cuantias#Cuantias>

²⁴ Temporary increase implemented by Royal Decree-Law 11/2022 of 25 June and maintained for 2023.

²⁵ Report “El coste de la crianza en 2022” (“The Cost of Parenting in 2022”), Save the Children Spain, 2022, p. 13. In order to include data for the reference period, figures for 2018, from the same report, are presented here: 507 € for the 0-3 bracket, 545 € for the 4-6 bracket, 610 € for the 7-12 bracket and 634 € for the 12-17 bracket.

This criticism does not mean that, in the future, the living conditions of households and recipients cannot be improved with this benefit, but this will require certain reforms.

SCE proposed some amendments to the bill of the law that definitively regulates the MIS.²⁶ These included an increase in the income threshold equal to the poverty line, so that all families in poverty are entitled to the MIS; as well as an increase in the benefit per consumption unit in order to produce a reduction in poverty rates. Now that the law is in force, these proposals have not lost any practical significance.

Conclusions

Although the implementation of the Minimum Income Scheme should be seen as a positive step, it is not an effective measure to put an end by itself to the economic crises that many vulnerable families in Spain are experiencing.

Many of them do not even apply due to lack of knowledge, lack of awareness about the terms and conditions for their application or administrative obstacles. Others face more specific barriers that prevent them from accessing it.

According to Save the Children Spain, amendments must be made, first, to the eligibility requirements, so that the MIS can reach those who need and should benefit from it. Also, there should be a commitment on the part of the State to increase the budget allocation and promote an increase of benefits that is in line with applicant families' real costs of living and of parenting. SCE invites the Committee to take this information into account in its assessment, and to make recommendations to the State so that the MIS can be considered in conformity with Articles 13 and 16 of the European Social Charter.

ANALYSIS OF ARTICLE 17 OF THE EUROPEAN SOCIAL CHARTER

Article 17 – The right of children and young persons to social, legal and economic protection.

“With a view to ensuring the effective exercise of the right of children and young persons to grow up in an environment which encourages the full development of their personality and of their physical and mental capacities, the Parties undertake, either directly or in co-operation with public or private organisations, to take all appropriate and necessary measures designed:

1) a. to ensure that children and young persons, taking account of the rights and duties of their parents, have the care, the assistance, the education and the training they need, in particular by providing for the establishment or maintenance of institutions and services sufficient and adequate for this purpose;

²⁶ Proposals for amendments to the draft law establishing the Minimum Income Scheme (based on Royal Decree-Law 20/2020 of 29 May), Save the Children Spain, 2021.

- b. to protect children and young persons against negligence, violence or exploitation;*
- c. to provide protection and special aid from the State for children and young persons temporarily or definitively deprived of their family's support;*
- 2) to provide children and young persons a free primary and secondary education as well as to encourage regular attendance at schools."*

This part of the report focuses on the following aspects of this right, in line with some of the concerns and requests for information to the State expressed by the Committee in its 2019 Conclusions:

- A. Foreign and stateless children and adolescents**
- B. Violence against children**
- C. Children in residential care**
- D. Child poverty**
- E. Access to affordable and quality education**

It should be noted, already at this stage, that the State, in general terms, does not respond to any of the concerns of interest to the Committee that were identified in the 2019 Conclusions.

With regard to article 17, the State's report focuses on the issue of education only. It describes the general legal framework and specifies the nature, rationale and scope of recent legislative reforms, specifically of the Organic Law on Education.

It indicates the measures adopted in relation to school grants and territorial cooperation programmes. It provides a description of these programmes - what they consist of, objectives, target groups, future implementation dates, etc. - and provides figures and statistics on the situation of children and adolescents who drop out before completing compulsory schooling, children who leave the education system without qualifications and young people aged 20 to 24 who have completed at least upper secondary education.

A) Foreign and stateless children and adolescents

Introduction

In its 2019 Conclusions, the Committee requested the State to provide information on stateless children and on the assistance provided to foreign children, especially unaccompanied children. The Committee warned that, if this information was not provided in the next State report, nothing would allow the Committee to conclude on the conformity of the situation in Spain with the European Social Charter.

However, in its 2023 report, the State does not provide information on these issues.

Save the Children Spain's assessment

Statelessness: According to data from the Ministry of Interior, in 2021, 147 minors applied for stateless status in Spain. In the same year, this status was granted to 37 children, and refused to 22 others.²⁷

Legal situation of migrant children: In this report, Save the Children Spain will limit itself to the data it has been able to obtain, through its studies, on the legal situation of migrant children, accompanied and unaccompanied. According to the report "Crece sin papeles" ("Growing Up Paperless") published in 2021,²⁸ in 2019 there were, according to calculations, some 147,000 people under the age of 19 in an irregular situation. This figure has been increasing since 2014.²⁹ It can be seen that the irregular situation particularly affects foreign children under the age of five: 27.3% of them were in an irregular situation, representing almost 38% of all children in such a legal situation.³⁰ Likewise, children are more affected by irregular status than foreign adults. Irregularity affects 20% of them, while the average for all age groups is 13%.³¹

In recent years, reforms to the Regulation implementing the Act on the Rights of Aliens³² have facilitated access to residence permits for unaccompanied foreign children who are under the guardianship of public administrations. The reforms have addressed the problem of unaccompanied children who, despite being under the guardianship of public administrations, did not have residence permits, by significantly shortening the deadlines for the competent authorities to obtain such authorisations. SCE's limited experience in the field, which cannot be considered representative, nevertheless indicates that the problem is not completely solved.

These reforms have also facilitated access to residence permits for children in care who came of age in an irregular situation, as it has created a new residence permit for those between 18 and 23 years of age. The new residence permits also allow access to the labour market, from which thousands of young people have already benefited. It is incumbent upon the State to give account of these reforms, which

²⁷ Ministry of the Interior: "El asilo en cifras 2021" ("Asylum in Figures 2021"), pp. 131-134, available at: https://www.interior.gob.es/opencms/pdf/archivos-y-documentacion/documentacion-y-publicaciones/publicaciones-descargables/proteccion-internacional/asilo-en-cifras/Asilo_en_cifras_2021_126150899.pdf.

²⁸ Report "Crece sin papeles" ("Growing Up Paperless"), Save the Children Spain, 2021, p. 15.

²⁹ Ibid., p. 17.

³⁰ Ibid., p. 18.

³¹ Ibid., 2021, p. 16.

³² Royal Decree 557/2011 of 20 April 2011, approving the Regulation of Organic Law 4/2000 on the Rights and Freedoms of Foreigners in Spain and their Social Integration. The reforms took place through Royal Decree 903/2021 of 19 October.

Save the Children nevertheless welcomes. The reforms were carried out in 2021 and their effects therefore fall outside the reference period for the most part.

Foster care for foreign children: Regarding the care regime for foreign children, their under-representation in non-institutional (foster family) care is striking: at the end of 2021, there were only 1,798 children in non-institutional care,³³ compared to 6,551 in residential care.³⁴ In the case of Spanish children, the figures are 16,657 versus 9,626. It is clear that the probability of benefiting from non-institutional care is much higher for Spanish children than for foreign children.

Conclusions

With these data, Save the Children Spain wishes to highlight that, in the very limited aspects dealt with by this section, foreign children continue to face obstacles and disadvantages that prevent them from improving their living conditions through the regularisation of their administrative situation. The State did not provide the information requested by the Committee in 2019 in this regard and Save the Children Spain would like to highlight the need to address the situations described. SCE suggests that the Committee continue to insist on these aspects so that the State provides the required information and so that a fruitful dialogue can be established with it to improve the living conditions of migrant children.

B) Addressing violence against children

Introduction: The Committee's concerns and main developments in the reference period

In its 2019 Conclusions, the Committee devoted very brief considerations to the protection of children from violence. It only addressed the prohibition of corporal punishment. Save the Children believes that Spain's ratification of the Revised European Social Charter in 2021 allows the Committee to address this issue more extensively from now on, as the wording of Article 17 in the Revised Charter explicitly mentions protection from violence, as opposed to the wording of Article 17 in the 1961 Charter. SCE therefore invites the Committee to focus much more on this issue in future rounds of monitoring. The 2023 State report, on the other hand, does not make any considerations in this regard.

Within the legal framework on children, Spain has Organic Law on the legal protection of minors No. 1/1996, which regulates the rights and duties of children

³³ Ministry of Social Rights and 2030 Agenda, "Boletín de datos estadísticos de medidas de protección a la infancia" ("Statistical data bulletin on child protection measures"), Bulletin no. 24, data for 2021, p. 43. Non-institutional care includes foster care in the child's extended family or in a foster family not related to the child.

³⁴ Ibid., p. 33.

and adolescents, risk and neglect situations where the public administration intervenes, guardianship and foster care, among other issues.

During the reference period, a major legislative breakthrough in addressing violence against children took place: the **Organic Law 8/2021 of 4 June on the Comprehensive Protection of Children and Adolescents from Violence** was passed. Save the Children Spain was heavily involved in the drafting process and considers it very satisfactory. It is a law with a holistic perspective on violence against children, which focuses on prevention, but not only, and addresses the many different situations in which children can be victims of violence. In this report, SCE will not conduct an overall assessment of the law and its implementation, but will insist on some aspects that, in Save the Children's view, are fundamental to protect children from violence in an effective way, in line with Article 17.1.b) of the Revised European Social Charter.

Save the Children Spain's assessment

1. Victims of child sexual abuse in court

In relation to child sexual abuse, SCE carried out the 2017 report "Ojos que no quieren ver" ("Eyes that don't want to see"), some of the results of which were updated in 2021.³⁵ In these reports, several hundred court judgments on alleged offences of a sexual nature against children and adolescents were analysed.³⁶

This report shows that child sexual abuse is one of the most abhorrent forms of violence against children; a worrying fact obtained as a result of this study is that sexual abuse extended, on average, for 4 years.³⁷

Despite the fact that, in recent years, there has been an increase in the social awareness of this problem, access to statistical records, data and the real situation of child and adolescent victims, as well as data on their treatment in the courts, is limited. The absence of a unified data system, as well as failures in the detection of child abuse cases, account for this.

The report "Eyes that don't want to see" also gives an account of the existing failures at the different stages involved when dealing with sexual abuse of children: prevention, detection, reporting, in the course of the judicial proceedings, the protection of children during the process, and the failure of the entire judicial and

³⁵ Report "Los abusos sexuales hacia la infancia en España. Principales características, incidencia, análisis de los fallos del sistema y propuestas para la especialización de los Juzgados y la Fiscalía" ("Sexual abuse of children in Spain: Main characteristics, incidence, analysis of the failures of the system and proposals for the specialisation of the Courts and the Prosecutor's Office"), Save the Children Spain, November 2021.

³⁶ The above research was based on the analysis of 203 court rulings between October 2012, and December 2016. See the report "Ojos que no quieren ver: Los abusos sexuales a niños y niñas en España y los fallos del sistema" ("Eyes that don't want to see: Sexual abuse against Children in Spain and the system's failures"), Save the Children Spain, September 2017, p. 9.

³⁷ Ibid., p. 64.

administrative system to restore the violated rights of children who are victims of sexual violence.

2. Revictimisation of children in court proceedings: pre-recorded evidence, repetition of statements and excessive length of court proceedings

According to the aforementioned report, pre-recorded evidence is one of the possible solutions to the problem of re-victimisation and over-intervention suffered by children and adolescents who have suffered sexual abuse and who must testify on repeated occasions in front of different agencies or professionals. The aim of this is to "take care of the testimony" of the victims of sexual abuse, trying not to re-victimise them by forcing them to recount over and over again about the abuse they have suffered.

Pre-recorded evidence³⁸ is the technique applied to record the statement of children and adolescents at the first opportunity for victims to recount the events they have suffered, as soon as possible, in an interview led by a forensic psychologist who then transmits the questions to the prosecutor, the judge and the defence lawyer at the investigation stage. The mandatory nature of the pre-recording of the statement for all victims and witnesses under 14 years of age is one of the main advances of the aforementioned Organic Law 8/2021. However, it is not ensured that this recording will be carried out by specialized professionals, as the law itself establishes it as optional: [...] *The judicial authority may order that the hearing of minors under fourteen years of age be carried out by psychosocial teams that will support the Court in an interdisciplinary and inter-institutional manner [...]* (see Article 449 ter of the Criminal Procedure Act).

With regard to children between 14 and 18 years of age, pre-recording of their statements is optional. Save the Children Spain advocates for a best-interests assessment in each case, in order to determine whether their statement will be pre-recorded as evidence, or whether they will have to declare in an audience before the trial judge. In this sense, it has been detected that, under current legislation, this assessment is not always carried out, as it is not mandated by the law.

The truth is that, although this technique offers a possible safeguard and preservation of the statement of children and adolescents who are victims of sexual abuse, and that it is legally and internationally accepted, only a small percentage of judgments analysed in Spain - less than 23% - show that the statement of children and adolescents who are victims of sexual abuse was pre-recorded.³⁹ Another notable problem is the repetition of statements. In the 2017 report, it was found that, in 87% of the judgments studied, each child victim had to recount the events four times during the course of the judicial process, including the investigation and trial phases.⁴⁰

³⁸ Ibid, p. 93.

³⁹ Report "Sexual abuse of children in Spain", 2021, p. 6.

⁴⁰ Report "Eyes that don't want to see", 2017, p. 86.



A final serious problem that is present in this, and in other, types of processes that require rapid and expeditious processing, due to the interests and rights that are at stake, is their excessive duration. In the aforementioned study of 2017, the average duration of proceedings in one instance was 3 years and in some cases, it reached 5 years.⁴¹ The data update carried out in 2021 reflected an improvement, with 63% of proceedings lasting two years or less, although this leaves more than a third of proceedings lasting more than two years, with proceedings lasting more than five years.⁴²

3. The need for a law on the specialisation of the justice system in violence against children and adolescents

Among the measures included in the new Organic Law for the Protection of Children from Violence, there is a mandate for the Government draft a Bill for **the specialisation of the judiciary and the prosecutor's office in violence against children**.⁴³

For Save the Children Spain, prevention is the key to fighting violence against children. However, when it is too late and a child has already suffered an assault, it is necessary to act to protect them, secure their rights and prevent secondary victimisation in the response.

Currently, the justice system is not adapted to child and adolescent victims, so ensuring a fair judicial process for all parties must be a priority.

Save the Children Spain carried out a project on the specialisation of justice in violence against children and adolescents. The general principles of this proposal relate to the specialisation in the investigation and trial phases (including specialised courts), coordination with the civil courts and with the courts specialised in violence against women, specialised training for judges and prosecutors, and joint and coordinated work with specialised psychosocial teams.

Save the Children Spain suggests that this is an aspect that the Committee should monitor in future rounds, bearing in mind that there is a commitment by the Spanish State in Organic Law 8/2021 to legislate on courts specialised in violence against children.

The Organic Law for the Protection of Children against Violence also includes a commitment to regulate specialised support teams for the courts. More specifically, the regulation envisaged should encompass their composition, functioning, and the entry conditions to become a member of the teams. The teams should be multidisciplinary teams that can provide the necessary psychosocial support to both the judge and the victims. This is a fundamental element of a child-friendly justice system, the development of which is the responsibility of the Autonomous Communities that exercise jurisdiction in the field of justice, and of

⁴¹ Ibid., p. 92.

⁴² Report "Sexual abuse of children in Spain", 2021, p. 5.

⁴³ Disposición Final Vigésima (20th Additional Provision) of Organic Law 8/2021, of 4 June.

the State in those Communities that have not assumed such competences. SCE suggests that the Committee pay attention to the progress of these developments in future monitoring rounds.

Conclusions

Violence against children is a serious problem existing in different spheres as the result of multiple factors. There is an urgent need for a clear, precise and specialised legislative tool to address it. However, no legislative tool will be sufficient if it is not accompanied by public policies in terms of prevention.

Save the Children Spain contends that, in addition to passing an ad-hoc specialised law on violence against children, State bodies should immediately and comprehensively address the problem: starting with public prevention policies such as comprehensive sexual education in schools, and mandatory education and training on violence against children.

This training should be provided to all professionals working in areas where they interact directly or indirectly with children and adolescents. That is, the school or academic environment, health, recreational facilities such as clubs, and/or sporting activities, as well as local administrative bodies that intervene in the different stages of dealing with this problem, and of course in the courts as bodies responsible for prosecuting and punishing those responsible for such crimes and restoring child victims' infringed rights.

In view of the above, SCE invites the Committee to verify whether the various commitments included in Organic Law 8/2021 to prevent violence against children are being properly implemented; in particular, the specialisation of the judiciary and of the State Prosecutor's Service in this field.

C. Protection system: non-institutional care vs. residential care

Requests of the Committee in its 2019 Conclusions

As regards alternative care systems, the Committee requested, in its 2019 Conclusions, to be kept informed of all trends in this area.

In particular, the Committee requested that, in the next report, the State provide data on the number of children placed outside their family in non-institutional settings and the number of children placed outside their family in an institution.

State response

In the face of these concerns of the Committee, the State did not provide any information in its 2023 report.

Save the Children Spain's assessment

This part of the report reflects the data available from the Ministry of Social Rights and 2030 Agenda. According to these data, as of 31 December 2021 (the last year



of the reference period), there were 16,177 children in residential care in Spain, and in that same year, there were 15,248 new admissions the system. There were 18,455 children in non-institutional care, with 4,981 new admissions.⁴⁴ Thus, foster care needs further encouragement from the authorities.

Despite the fact that regional laws usually prioritise foster family care for children under six years of age (especially emergency foster care for a maximum of six months), it is worth noting that, on the aforementioned date, there were 503 children under the age of three in residential care, and an additional 536 between the ages of four and six.⁴⁵ Article 21.3 of Organic Law 1/1996 on the legal protection of children establishes that residential care shall not be contemplated for children under three years of age, and that this limitation shall be applied to children under six years of age as soon as possible. While the process to adopt a Deinstitutionalisation Strategy is ongoing, which Save the Children welcomes, and trends seem to be moving in the right direction, SCE suggests that the Committee pay attention to this issue in future monitoring rounds, in order to support the State with its observations and recommendations on the steps towards deinstitutionalisation.

D. Child poverty

Introduction

In June 2021, the Council of the European Union formally adopted the Recommendation establishing a European Child Guarantee. This calls on Member States to ensure that children and young people at risk of poverty, social exclusion or other vulnerable situations have access to a set of services that are key to their development and well-being, free of charge or affordably.

Specifically, it aims to ensure effective and free access to: 1) Early childhood education (0-3) and early childhood care; 2) School education and activities; 3) School meals; 4) Health care. In addition to effective and affordable access to 5) healthy food and 6) adequate housing.

Following this, in July 2022, the Spanish Government presented the State Action Plan for the Child Guarantee, which specifies the actions - in the form of investments, policies and initiatives - to be taken in the coming years (until 2030) to comply with this Recommendation. Regional Action Plans at the level of the Autonomous Communities shall follow. They will be of key importance, given that the services covered by the European Child Guarantee fall under the jurisdiction of the Autonomous Communities.

With this, Spain will finally have a "roadmap" for the fight against child poverty. As the Guarantee stands as the central policy against child poverty, Save the Children

⁴⁴ Ministry of Social Rights and 2030 Agenda: "Boletín de datos estadísticos de medidas de protección a la infancia" ("Statistical data bulletin on child protection measures"), Bulletin no. 24, data for 2021, pages 53 and 55.

⁴⁵ Ibid., p. 31.

Spain aims to contribute to ensure its effective implementation by monitoring the needs of children in vulnerable situations, and invites the Committee to take an interest, in future monitoring rounds, in the progress of the implementation of the Child Guarantee in Spain.

In view of the above, and due to the great concern that this situation generates, this Foundation produced a report at the end of 2022⁴⁶ which, through direct interaction with children and their families, provides a snapshot of the state of child poverty in Spain. Although the study cannot be considered representative at national level, and falls outside the reference period, it is made available to the Committee because of its interest. The State must be aware of the situation and take the matter into its own hands.

This report has been carried out by putting the child perspective into practice to the fullest extent possible, gathering first-hand voices of children and their families in situations of vulnerability, and thus materialising the right to be heard and the effective participation of children and adolescents in matters that concern them.

To this end, SCE carried out a piece of research based on information obtained from 1,187 families in vulnerable situations supported by our organisation (almost half of the total), and that overlap with the target group of the European Child Guarantee. In doing so, SCE aimed to analyse the level of well-being of vulnerable children, to provide relevant input on the rollout of the Guarantee, to highlight the unmet demand for services and to detect emerging needs.⁴⁷

In view of the above, and as a result of the information gathered by SCE in the studies carried out in recent years, this section will summarise some of the most significant results obtained, emphasising the most striking data on child poverty in Spain.

The Committee's concerns

With regard to the structural problem that Spain is experiencing in relation to the high levels of poverty and social inequality, **the Committee requested in 2019 that, in its next report, the State provide more information**, as it was unable to rule on the conformity or non-conformity with the Social Charter, due to a lack of information.

In this regard, it requested:

- 1) Information on child participation in anti-poverty policies.

⁴⁶ Report "The European Child Guarantee under review: The situation of vulnerable children participating in Save the Children programmes and their families (full report)", Save the Children Spain, 2022.

⁴⁷ Ibid., p. 6.



2) Information on child poverty rates as well as on measures taken to reduce child poverty, including non-monetary measures such as ensuring access to quality and affordable services in the areas of health, education, housing, etc.

3) Information on measures focused on combating discrimination and promoting equal opportunities for children and adolescents belonging to particularly vulnerable groups, such as ethnic minorities, Roma children, children with disabilities and children in residential care.

The State's response

The State, for its part, made no mention of the current situation. As indicated above, the State's explanations regarding Article 17 are limited to the field of education.

Save the Children Spain's assessment

1. Child poverty rates in Spain

Child poverty levels in Spain are unacceptably high. According to the Living Conditions Survey (Encuesta de Condiciones de Vida) for 2021 (the last year of the reference period), the child poverty rate continued to be higher than general population's poverty rate. There were still more than 2.3 million children and adolescents at risk of poverty.⁴⁸ These are children living in families in a situation of extreme vulnerability, who are unable to cover their basic needs. Thus, as children and adolescents, they do not enjoy their fundamental rights of access to education, health, food and housing.

SCE is therefore concerned because child poverty still affected 28.9% of children in 2021, well above the 21.7% general poverty rate. In addition, there were more than 889,000 children and adolescents living in extreme deprivation, that is, lacking the basic goods and services to maintain decent living conditions.

SCE is committed to bringing the situation of vulnerable families to the fore in order to trigger public policy responses. In this regard, the report "La Garantía Infantil a Examen: Situación de la infancia vulnerable participante en los programas de Save the Children y sus familias" (*Child Guarantee in Review: The situation of vulnerable children participating in Save the Children's programmes and their families*) shows, in particular, that:

⁴⁸ The data can be found in Save the Children's press release: "Encuesta de condiciones de vida. Save the Children alerta de que la pobreza infantil aumenta y ya alcanza a 2,4 millones de niños y niñas" ("Living Conditions Survey: Save the Children warns that child poverty is increasing and now affects 2.4 million children,") 29 June 2022: <https://www.savethechildren.es/notasprensa/encuesta-de-condiciones-de-vida-save-children-alerta-de-que-la-pobreza-infantil-aumenta>. The 2022 Living Conditions Survey shows that some of this data has improved and some has worsened. Available here: <https://www.savethechildren.es/notasprensa/encuesta-de-condiciones-de-vida-aumentan-los-ninos-ninas-y-adolescentes-que-no-tienen>.

- The 1,187 families surveyed included over 2,500 children and adolescents, 52% of which were boys and the remaining 48% were girls, most of them between 10 and 12 years of age.⁴⁹
- In reference to the type of family, most of the families surveyed by SCE correspond to the two-parent profile, while one third of families are headed by a single parent, most commonly a woman.
- The parents' origin can be an additional factor of inequality for children. In this regard, up to 2/3 of the families that participate in SCE's anti-poverty programmes are headed by parents of a foreign origin. Among these, the highest percentage are families of African origin (32%), followed by those of Latin American origin (28%). In terms of educational level, Latin American families have the highest levels of qualifications compared to Spanish and other foreigners.⁵⁰

Aspects analysed

The report analyses five main aspects of the quality of life of children and adolescents and their families, namely: household income, education, nutrition, health and housing, which are detailed below:

- Household income

Less than half of the parents surveyed (47 %) are employed, while the remaining 53 % are looking for work or are inactive. Mothers participate in the labour market to a much lesser extent than fathers do, because they are mainly responsible for taking care of children and of household chores.

Only 2% of children reside in households where both parents work full time. Benefits do not reach all families in need, not even those in extreme poverty. Seventy-three per cent do not receive either the Minimum Living Income or a regional minimum income scheme.⁵¹

Almost two thirds of the children in the study live in families with a net income below 1,000 euros per month, with an average family size of four members.⁵² As a consequence of low employment rates and low family income, 97% of the children in families surveyed by SCE live in poverty.⁵³

Almost one third of children, 28.2%, are in a situation of **extreme poverty**: their household income level falls below the 20% threshold. Single parenthood and

⁴⁹ Report "The European Child Guarantee under review: The situation of vulnerable children participating in Save the Children programmes and their families (full report)", Save the Children Spain, 2022, p. 7.

⁵⁰ Ibid., pp. 6-10.

⁵¹ Ibid., p. 13.

⁵² Ibid., p. 17.

⁵³ Ibid., p. 13.

extended families, as well as primary education levels, increase the likelihood of poverty.⁵⁴

- Education

Pre-school education is far from reaching all children: almost 25% of the children in the families interviewed do not attend pre-school. In the 0-3 age range, half of them do not attend.

Only 44% can afford extracurricular activities. Access to these activities decreases as children progress in their educational pathway, and is also relatively lower when parents are inactive (28%) or have completed at most primary education (36%).⁵⁵ 45% of the children surveyed do not have a computer or an adequate internet connection.⁵⁶

School support lessons can compensate for the academic disadvantages faced by pupils. Around 25% of pupils attend the different types of support lessons offered by schools. The factor that best explains children and adolescent's access is their repetition record: among the children and adolescents who have repeated a grade in primary school, access to support lessons is 15 points higher than average (40%) and almost twice as high as among those who have never repeated a grade (21%).⁵⁷

- Nutrition

The majority of children supported by Save the Children (58%) do not consume enough fruit and vegetables at home. Thirty-seven per cent do not meet the recommended protein intake by not eating enough meat, poultry or fish.⁵⁸

School canteens are key to compensate for these deficiencies, but only 2 out of every 3 children included in this survey benefit from them. Most of them do so completely free of charge. The higher the degree of poverty, the higher the access of children and adolescents to the service.

Data analyses indicate that the income effect is stronger than the work-life balance effect: access to school meals is lower among children whose parents work full-time (both) (70%), compared to those whose parents do not (one or none). The educational cycle is also a barrier, because in compulsory secondary and post-compulsory education centres, as well as in basic vocational training centres, the availability of school canteens is lower.⁵⁹

In light of this, free access to the school canteen should be underscored as a key tool for inclusion by guaranteeing at least one healthy meal per school day for the most vulnerable children.

⁵⁴ Ibid., p. 13.

⁵⁵ Ibid., p. 36.

⁵⁶ Ibid., p. 34.

⁵⁷ Ibid., p. 34.

⁵⁸ Ibid., p. 60.

⁵⁹ Ibid., pp. 96-97.



- Health

54% of families are unable to take their children to the dentist. 41% have not been able to acquire glasses or prostheses and 22% have not been able to obtain the necessary medicines. Financial costs are the main reason behind the lack of access to a dentist (26% of families said that at least one of their children had been unable to go for financial reasons at some point), to medicines (6%) or to medical supplies (10%).⁶⁰

Nearly 17% of the parents said that their children's mental health is poor or average and 42% of parents have had difficulties in accessing specialised care.

- Housing:

The average household spends more than half of its income on housing (51%) and the poorest households spend 63% of their income on housing.⁶¹

Furthermore, the dwellings of families with children in vulnerable situations have serious deficiencies that can have a negative impact on children's health and wellbeing. In this regard, more than a third of children in the families surveyed live in homes affected by damp or leaks, excessive noise or lack of natural light.

Energy poverty: relation to the right to housing:

Energy poverty negatively affects children's physical and mental health, as well as their educational performance, and this requires specific measures to ensure their access to this essential commodity.

The State Action Plan for the implementation of the European Child Guarantee has taken this need into account, going beyond the European Recommendation, which did not include access to energy supplies as a key service.

Adequate access to energy supply should be considered a core part of decent housing conditions. However, 47.2% of the children and adolescents in the families supported by SCE live in households where they have never, hardly ever, or only sometimes, been able to maintain an adequate temperature in their homes. This means that they have suffered power cuts or that, very often, they stop using the heating or air conditioning because of their unaffordability.⁶²

Conclusions

The data presented stem from a non-representative sample of some 1,200 families supported by Save the Children. These are, by definition, families in a situation of economic vulnerability. While these data cannot provide a general picture of poverty in Spain, the results warn about the situation of children in vulnerable

⁶⁰ Ibid., p. 51.

⁶¹ Ibid., p. 77.

⁶² Ibid., p. 87.

situations and their families, to whom the State must pay special attention. This derives from the jurisprudence of the Committee on the progressive realisation of the rights of the European Social Charter, which requires special monitoring of the most vulnerable population groups.⁶³

Turning now to data relating to the Spanish population as a whole, it is worth reiterating that, according to the National Statistics Institute's Living Conditions Survey for 2021 (the last year of the reference period), 28.9% of children and adolescents in Spain were in a situation of poverty, one and a half points higher than in the previous year. In total, the number of children in poverty in 2021 was more than 2,379,000.

This percentage rises to 33 per cent, or 2,714,000 children, if severe material and social deprivation and the low labour intensity rates are added to the poverty rate. This results in the standard at-risk of poverty or social exclusion (AROPE) rate.

In addition to these high levels, the depth of child poverty is worrying. The severe child poverty rate also continued to rise in 2021 to 14.9%, 0.8% pp. up from 2020, affecting more than 1,229,000 children in total.

1 out of every 10 children and adolescents lives in a situation of severe material and social deprivation. This is the most extreme level of scarcity, because it has to do with the impossibility of accessing the most essential goods and services to sustain a dignified living condition.

Households with children and adolescents face a poverty rate 10 points higher than households without children (26.6% vs. 16.6%). Such a difference proves that having children increases the likelihood of poverty given the current levels of public support.

The situation of single-parent households – mostly headed by women – is of particular concern as they face a poverty rate of 49%.

Without social transfers, the relative child poverty risk rate would still have risen by 18.9 points in 2020. However, the reduction of child poverty in Spain after transfers is the second lowest in the European Union.⁶⁴ More, and more effective, investment is therefore needed to combat child poverty.

According to Save the Children Spain, public policies should take into account these spheres of vulnerability and prioritise situations where multiple dimensions collide.

⁶³ See the Committee's Decision on the Merits in Collective Complaint No. 33/2006, International Movement ATD Fourth World v. France, 5 December 2007, paras. 58-60.

⁶⁴ See the article of the Spanish “Alto Comisionado contra la Pobreza Infantil” (The Government’s High Commissioner against Child Poverty), based on EU-SILC data: <https://www.comisionadopobrezainfantil.gob.es/es/tasas-de-riesgo-de-pobreza-infantil-y-reducci%C3%B3n-de-la-pobreza-por-transferencias-en-la-ue-2020>.



Save the Children Spain argues that, in order to fight child poverty, greater levels of equity and inclusion in the education system are needed, in order to ensure equal opportunities and access to work and social inclusion for all children, adolescents and young people.

Child poverty and its consequences must be addressed by improving levels of family income support and access to quality essential goods and services, i.e. in the areas of health, nutrition, housing, energy and social services, to mention the main ones.

There is also a need to raise the levels of social protection for families, to support parenting and to improve levels of work-life balance that ensure the affordability of having children. Also, a special focus is needed to promote adequate labour market and social inclusion of migrant and refugee families, from an inclusive and human rights perspective.

Progress has been made during the reference period, and the data of the Living Conditions Survey for 2022 (outside of the reference period) show some improvement as compared to those for 2021. However, a lot more effort is needed to promote significant changes in child poverty in Spain. As can be seen in this analysis, and as the Committee's interpretation of Article 30 of the Revised European Social Charter demonstrates, poverty is a multifactorial reality and tackling it requires compliance with several of the Charter's articles.

E. Access to affordable and quality education

Introduction

In terms of the right to education, the problems faced by children are many and varied, as are the factors that influence them. Based on the studies and reports carried out by Save the Children during the period in question, this report provides data and assessments on three aspects relating to the accessibility and quality of education: the system of scholarships and grants at school, school segregation and grade repetition, and school dropout.

1. Grants

Introduction and request of the Committee

In its 2019 Conclusions, the Committee requested the State to provide information on the measures it was taking to reduce child poverty, including non-monetary measures such as access to affordable and quality education. Scholarships are a monetary measure that facilitates access to education, and are an entitlement for students from vulnerable socio-economic backgrounds. In order to guarantee equality of all persons in the exercise of the right to education, the State provides scholarships and study grants.

State response

The State proposes two strategic lines of action, consisting of study grants and territorial cooperation programmes.

The State has informed the Committee about this in its 2023 report. As far as the grants system is concerned, the amendment of the education law reinforces this right. As an additional measure, a supplement of €100 per month was approved in 2022 for all students over the age of 16 who already benefit from a scholarship. It is important to note that this was an extraordinary measure, adopted by the State in the context of the economic consequences of the war in Ukraine, and not a structural measure included in the education law.⁶⁵

In order to be able to implement this line of action, the State Budget foresees a considerable increase for 2023, of approximately 2.6 billion euros. This represents 18.2% more than the amount allocated in 2022 and 72.5% more than the expenditure of the MEFP - Ministry of Education and Vocational Training - (1,507.2 million euros) for the 2017-2018 school year.

The Ministry of Education and the Ministry of Universities estimate that these grants will be distributed to around 800,000 beneficiaries between non-university students and university students; 24.5% more than in the 2017-2018 school year.

Save the Children Spain's assessment

Recognising the progress made, SCE believes that the system of grants and scholarships continues to be insufficient to meet the needs faced by vulnerable students.

In general terms, the main problems are: 1) The economic investment made by the Spanish state is insufficient. It invests less in scholarships and grants than neighbouring countries and does not invest in the stages with the greatest equitable impact. Furthermore, it has a greater amount of aid and scholarships for the university system, despite the fact that school dropout occurs at the primary or secondary level beforehand.⁶⁶ 2) Coverage is not strategic, as these aids do not reach all those who need them or those who drop out of education earlier.⁶⁷

Finally, it is a fragmented system, with disparate access criteria between the different educational stages, that does not generate certainty throughout educational life.

In recent years, the Save the Children Foundation has paid special attention to allowances to cover the cost of school meals. Together with the NGO "Educo", SCE proposed to the State a greater investment in canteen allowances for children and

⁶⁵ This measure was approved, on a temporary basis, by Royal Decree-Law 14/2022, of 1 August, on economic sustainability measures in the field of transport, grants and study aids, as well as energy saving and efficiency measures and measures to reduce energy dependence on natural gas (Articles 21 et seq.).

⁶⁶ Report "Becas para que nadie se quede atrás" ("School grants to leave no one behind"), Save the Children Spain, 2018, pp. 21-24.

⁶⁷ Ibid., pp. 38-43.

adolescents in vulnerable situations, within the framework of the discussion of the General State Budget for 2023.

This is due to the fact that, in addition to having an impact on the education of poor children and adolescents, canteen allowances also improve their nutrition and health. According to data obtained by SCE, while 1 out of every 3 children is at risk of poverty or exclusion, canteen allowances and subsidies only reach 11.2% of pupils in infant and compulsory education, and in many cases only partially cover the cost.⁶⁸

The school canteen is key to ensuring healthy nutrition, especially for children living in poor families. In addition, it has been found that children who use the school canteen have a lower prevalence of obesity and overweight. The percentage of children with obesity doubles for lower-income households (23.7 per cent) compared to higher-income households (10.5 per cent).⁶⁹

In addition to the impact on nutrition, the canteen is an area in which children socialise, it is also a space for containment, which is part of their right to education understood in a broad sense. However, 17.8% of public primary schools do not have a school canteen and only 44.8% of pupils have their lunch at school.⁷⁰

More than a million children and adolescents below the poverty line pay for the full school meal or do not have access to it because they do not benefit from any financial aid. The amounts of existing aid schemes are insufficient and territorially unequal, as the national regulation of school grants does not cover school meal allowances. The income thresholds for access are excessively low and these allowances are not legal entitlements in Spain.

Together with Educo, SCE concluded that the General State Budget was a unique opportunity to contribute to making access to school meals for the most vulnerable children a reality. The 2023 Budget did not include this proposal and SCE therefore invites the Committee to pay attention to this particular issue in future monitoring rounds since, as has been demonstrated, it is a relevant issue for several child rights.

Conclusions

⁶⁸ Report “Garantizar comedor escolar sano y gratuito a toda la infancia en riesgo de pobreza” (“Ensuring healthy and free-of-charge school canteens for all children and risk of poverty”, Save the Children Spain, 2022, available at https://www.savethechildren.es/sites/default/files/2022-05/Garantizar_comedor_escolar_sano_gratuito_a_toda_infancia_en_riesgo_de_pobreza.pdf).

⁶⁹ Report “Adiós a la dieta mediterránea: Nutrición y hábitos saludables de la infancia en España” (“Goodbye to the Mediterranean Diet: Nutrition and healthy habits of children in Spain”), Save the Children Spain, March 2022, available at <https://www.savethechildren.es/actualidad/informe-adios-dieta-mediterranea>.

⁷⁰ Educo, “Comedor escolar universal y gratuito: un objetivo alcanzable y urgente” (“Free school meals for all: an achievable and urgent goal”), 2022. Available at <https://educowebmedia.blob.core.windows.net/educowebmedia/educospain/media/docs/landing/informe-becas-comedor-2022/educos-2022-comedor-escolar-universal-y-gratuito-un-objetivo-alcanzable-y-urgente.pdf>

Scholarships and grants constitute a subjective right focused on equity and are a clear educational policy against school dropout. They are a necessary tool to compensate for the economic inequalities that affect many children in their school careers from early childhood, as well as in primary and compulsory secondary education.

Therefore, SCE considers that, in order to be efficient and effective, a profound and ambitious reform is required that includes the following measures, which SCE proposed in a 2018 report,⁷¹ and which, to date, remain relevant in several aspects such as: 1) Moving from a system of variable amounts to one of fixed amounts. 2) Significant increases in compensatory and mobility grants for pre-university years, in order to bring them into line with university grants. 3) Specific modalities for those at risk of dropping out of the compulsory secondary education, for those who combine studies and work and for those who want to return to the education system. 4) Carrying out information, accompaniment and support actions for scholarship application processes.

Regarding school meal allowances, SCE recommends: 1) Establishing the poverty threshold as the minimum income level that opens access to an allowance or to free school meals throughout the State. 2) Extending aid to students in compulsory secondary education; 3) Giving priority to opening school canteens and kitchens in public secondary schools, especially those that enrol disadvantaged students; 4) Establishing direct granting and flexible budget items so that the allowance reaches all those who meet the requirements, as an entitlement for all those who meet the income requirement, and does not depend on available budget; 5) Applying non-stigmatizing social pricing systems to the school canteen with minimal bureaucratic barriers associated to the level of family income.

In view of the above, and of the State's response in this regard, it is possible to conclude that, in spite of budget increases and reforms in the years of the reference period, and also in 2023, in comparison with previous financial years, there is still a long way to go in this regard for a real access to the aid that the State should provide for children and adolescents in vulnerable situations.

2. School segregation

Introduction and request of the Committee

The lack of implementation of efficient and equitable education policies leads to the problems of repetition, in many cases total dropout, and school segregation.

⁷¹ Report "School grants to leave no one behind", 2018, pp. 59-65.



The latter problem relates to the concentration, in certain schools, of children belonging to families with fewer resources⁷². This problem has been increasing over the years due to the increase in child poverty and the lack of sufficient economic resources of the most vulnerable families.

In its 2019 Conclusions, the Committee requested the State to provide information on measures taken to combat discrimination and promote equal opportunities for particularly vulnerable children. SCE believes that this particular issue of school segregation affects the equal opportunities of children from economically disadvantaged families, and therefore this report draws the Committee's attention to this issue in particular.

State response

In the report submitted to the Committee in 2023, the State refers to the legal provisions of the Education Act, following its amendment in 2020, aimed at combating school segregation and ensuring inclusiveness and equity in the education system. However, it does not mention any operational measures taken in this regard. Although it is true that these measures are the responsibility of the Autonomous Communities, it is the State that submits the report to the Committee, and it would have been desirable for it to have gone into this issue in greater depth.

Save the Children Spain's assessment

SCE produced a report on this issue in 2018, entitled "Mézclate conmigo: De la segregación socioeconómica a la educación inclusiva" ("Mingle with me: From socio-economic segregation to inclusive education"). Its conclusions continue to apply to the current reality. The data mentioned in the following section can be found in this report.

In this research, SCE highlighted **the main causes** of school segregation in Spain, detailed **the consequences** of this problem for boys and girls, and **proposed some solutions for its eradication**.

Some relevant facts

Spain has the third-highest socioeconomic segregation index in primary schools in the OECD, according to calculation based on TIMMS.

The Autonomous Community of Madrid is the Spanish region with the highest school segregation and leads the ranking, also at OECD level (only behind Turkey

⁷² Report "Mézclate conmigo: De la segregación socioeconómica a la educación inclusiva" ("Mingle with me: From socio-economic segregation to inclusive education"), Save the Children Spain, 2018, p. 4. Report available at: <https://www.savethechildren.es/publicaciones/mezclate-conmigo>.

in primary schools and Chile in secondary schools).⁷³ In this region, school segregation has grown in the last years more than in any other region.⁷⁴

Some causes of segregation: the concentration of the most vulnerable students in public schools.

Segregation is caused by the concentration of students from very vulnerable socio-economic situations in certain schools, and affects 46.8% of all schools, i.e. almost half of all students. In addition, 9 out of 10 of these schools are public schools, which have less budget and resources from the State, and are unable to retain the most qualified teachers.

Segregated schools are characterised by a high level of complexity due to the high presence of children in vulnerable situations, as well as of students with specific language support needs and other special educational needs. They have a limited range of extracurricular activities available for their pupils, or in some cases, it is not possible to carry out any of these activities at all. Approximately 4 out of 10 segregated schools do not offer any extracurricular activities for students.

Finally, families who enrol their children in these schools prioritise the criterion of the school's proximity to their homes (almost 67% of families) over other criteria.

The consequences of school segregation for children

Beyond the fact that, as mentioned above, concentration causes school segregation, the fact is that school segregation affects children from all social and economic backgrounds and not only those who are in a more disadvantaged socio-economic position.

One of the consequences that this problem has on children is the reduced development of socio-emotional skills to cope in their lives. On the other hand, it causes an increase in school repetition and many of the students end up dropping out of school, which directly affects their personal, work and professional development.

Furthermore, segregation negatively affects the education system and the economy, as it reduces the efficiency of the education system (leading to poorer outcomes and higher public spending) and harms a country's economy, especially in terms of productivity, growth and innovation.

Conclusions

SCE invites the Committee to monitor closely this issue in future rounds of supervision, and thus monitor those public policies implemented by the State and

⁷³ See Ferrer, A. y Gortázar, L. (2021). "Diversidad y libertad. Diversidad y libertad: Reducir la segregación escolar respetando la capacidad de elección de centro". Available at: <https://dobetter.esade.edu/es/segregacion-escolar-esadeecpol>

⁷⁴ Report "Mézclate conmigo: De la segregación socioeconómica a la educación inclusiva" ("Mingle with me: From socio-economic segregation to inclusive education"), Save the Children, 2018, p. 6; Ferrer y Gortázar (note 74).

the Autonomous Communities aimed to reduce and/or eradicate school segregation.

School segregation affects a population of vulnerable children, but the data also show that this has been increasing over the years, and that the State has just started to make it a concern or a priority to address.

SCE argues that addressing the reduction - or at best, the eradication - of school segregation would lead to better results in PISA, and students would increase their chances of grade progression, as well as their expectations of pursuing University studies. This would contribute to greater educational equity and reduce the large social inequality gaps that currently exist.

3. School dropout and repetition

Introduction and information provided by the State

The second paragraph of Article 17 of the Revised European Social Charter requires states to encourage regular school attendance. Accordingly, in its 2023 report, the State has provided figures on early school leaving and graduation rates. These figures show a steady improvement of these indicators, which is excellent news. However, these figures are still above European average values. The State also mentions the PROA+ programme, which seeks to fund actions in 3,000 schools aimed, among other things, at reducing early school leaving.

With regard to grade repetition, the State explains in its 2023 report the programme for the creation of personalised and family accompaniment and guidance units for vulnerable pupils in education. In doing so, it indicates that school repetition is closely linked to factors such as the socio-economic level or the educational level of the family. The accompaniment units are intended to reduce repetition levels, and the State indicates that the programme for setting up the units will be implemented between 2021 and 2024. It therefore falls outside the reference period.

Save the Children's assessment

Repetition and dropping out of school, as expressed in the previous section, may be consequences of school segregation, but many other factors influence them and they occur in a very generalised manner. This is a serious and complex problem in Spanish society.

According to a study by SCE,⁷⁵ Spain is the country with the highest repetition rate in the EU and the OECD. Spain's education system has several irregularities in this

⁷⁵ Report "Repetir no es aprender: Mitos desmentidos y alternativas a una práctica inequitativa e ineficiente" ("Repeating does not mean learning: Myths Debunked and Alternatives to an Inequitable and Inefficient Practice"), Save the Children Spain, 2022, p. 23.

regard, despite having advanced legislative standards on a par with other countries with better quality education, such as Finland.

In Spain, by the age of 15, 29% of students have repeated a grade at some point. The European Commission points out that in the countries with the highest repetition rates there is a "repetition culture", i.e. the socially shared idea or belief in the "benefits" of repetition, demystified in the report cited above. Repetition has no effect on learning and harms students with a low educational and socioeconomic level, according to the highest quality research accumulated in the last two decades. Repeating significantly reduces students' self-esteem and effort, especially if repetition occurs in later years of schooling, and encourages early school leaving.

In addition, it is important to mention the existence of the document entitled "*Spain 2050: Foundations and proposals for a long-term national strategy*". This document, coordinated by the Government's National Foresight and Strategy Office and drafted by around one hundred experts, identifies the major challenges facing Spain over the next thirty years, including grade repetition as one of the major unresolved issues and one of the objectives in the field of education.⁷⁶

We therefore invite the Committee to take particular account of the problem of early school leaving and repetition in the forthcoming monitoring rounds and to check the results of the programme to set up support and guidance units.

Conclusions

Unfortunately, segregation, repetition and school dropout remain problems that have not yet been eradicated in Spain. These problems represent structural weaknesses of the Spanish education system. They could be improved if there were real political will and budget to implement real public policies to counteract the serious consequences for students and their future personal, professional and professional development.

To improve grade repetition and early school leaving, Save the Children Spain recommends: 1. Including the reduction of grade repetition as an explicit strategic objective of the education system, with measurable and ambitious goals in the future national school success plan. 2. Taking advantage of the change in repetition criteria in the new Education Act, providing collaborative training programs and sustained support to teaching teams to experiment; reflecting and changing beliefs and practices on repetition, through mentoring, external advisors, feedback and networking. 3. Attaching repetition reduction goals to the autonomy granted to schools to innovate, assorted with support and more resources. 4. Including effective strategies for managing multilevel classes in the initial and permanent training of teachers that currently under reform. 5. Extending remedial lessons and tutoring in small groups, as well as summer schools, as a condition for students who

⁷⁶ Ibid., p. 14.



pass their school grade with pending subjects and for those in a socially vulnerable situation. 6. Early and preventive identification of student vulnerability using administrative data, basing its definition on objective indicators and distinguishing it from curricular delay or repetition. 7. Access of vulnerable students to quality early childhood education 0-3, giving preferential access in the admission criteria and improving the quality requirements of nursery schools. 8. Reducing school segregation by socioeconomic level and migrant origin, ensuring equivalence in quality and services of the school offer and developing measures of information, non-discrimination and free admission and balanced enrolment. 9. Joint transition programs from primary to secondary between primary schools and highschools. 10. Taking advantage of the new curriculum to move away from numeric grades, and to introduce new instruments to assess the performance of students, based on the description of competencies and on feedback.

It can be concluded that it is much cheaper for the Spanish state to invest in preventive public policies than to address the problem once it has already caused grievances in the educational community. In short: universal access with fees set in accordance to families' wealth would cost 1.64 billion euros, in increases of 164 million/year until 2030 (SDG deadline), while repetition costs approximately 1.44 billion euros per year and school dropout costs 17 billion euros per year to the country's economy.⁷⁷ With those 1.44 billion euros Spain is wasting in grade repetition, remedial tutoring lessons could be provided to 47% of all primary and secondary school pupils.⁷⁸

ANALYSIS OF ARTICLE 31 OF THE EUROPEAN SOCIAL CHARTER

Article 31 – The right to housing

With a view to ensuring the effective exercise of the right to housing, the Parties undertake to take measures designed:

- 1. to promote access to housing of an adequate standard;*
- 2. prevent and reduce homelessness with a view to its gradual elimination;*
- 3. to make the price housing accessible to those without adequate resources.*

⁷⁷ Report "Where it all begins: 0-3 early childhood education for equal opportunities", 2019, p. 153.

⁷⁸ Report "Repeating does not mean learning: Myths Debunked and Alternatives to an Inequitable and Inefficient Practice", 2022.



This part of the report will focus on the following aspects highlighted by the Committee in its 2019 Conclusions:

- A. The social housing stock**
- B. The financial sector's Social Housing Scheme**
- C. Evictions**

A. Social housing stock

The Committee's concerns and the State's response

The Committee called for a stock of social housing as a measure in favour of the most vulnerable families in its 2019 Conclusions. The State, in its 2023 report for the current cycle, referred to the need to amend the current legislation on the subject. A new law on the right to housing was passed in May 2023 with measures to facilitate the creation of affordable housing stocks and the capping of rents, among many other measures.

The State report indicates that Spain's social housing stock amounts to 295,000 units, or 1.6% of the total. It also provides figures on the progress of different co-operation programmes with the Autonomous Communities, aimed at expanding the social housing stock.

The State report also mentions a credit line has been set up by the Ministry of Social Rights and 2030 Agenda to finance social services projects in the autonomous communities, with the aim of helping families with children in a situation of severe material deprivation or threatened by poverty, and to improve their housing, social and labour situation.

The report mentions another item that has an impact on the most vulnerable families, which consists in funding earmarked for comprehensive social intervention projects for guidance, prevention of marginalisation and integration of the Roma people, with 2 million euros for the financial year 2022.

Save the Children Spain's assessment

Save the Children Spain has repeatedly highlighted that Spain has one of the smallest social housing stock in Europe, which amounts to barely 2.5% of the total. The European average (EU-28, including the UK) stands at 9.3% of the stock.⁷⁹ Investment in housing policies is also much lower: while the EU average represents 0.4% of the Gross Domestic Product and 130 euros per capita, in Spain it is less than 0.3% of the GDP and 72 euros per capita.⁸⁰

⁷⁹ Report "Aquí no hay quien viva: un análisis de las dificultades de las familias para pagar la vivienda en España" ("Nobody can afford to live here: An analysis of families' housing affordability difficulties in Spain"), Save the Children Spain, 2023, p. 45.

⁸⁰ Ibid., p. 49.

This is due, on the one hand, to the fact that the Spanish State allocates very little budget to the public provision of housing and because public provision policy has traditionally been oriented towards facilitating access to social housing in an ownership regime. In this regard, the social protection scheme ceased to apply after some years. In this way, the social housing provided maintains its status as subsidised housing for a certain period of time, after which it ceases to be subsidised and can enter the free housing market.⁸¹

As for the availability of social housing, data collected by the Ministry of Transport, Mobility and Urban Agenda show that there are 450,000 public social housing units, although housing units in smaller municipalities may not be accounted for in this figure. In any case, these numbers represent historic lows, due to a steady decline in the annual provision of new public housing.⁸²

In addition, it is important to mention that accessing social housing does not always prevent families' financial overburden. 35% of households with dependent children who are in poverty and rent housing below market prices are financially overburdened.⁸³ Rising house prices, especially rents, which have not been accompanied by an increase in household incomes, have made it extremely difficult for families to pay. This overburden affects 4 out of 10 households with dependent children who live in rented accommodation. Financial overburden is referred to those families who have to spend at least 30% of their income on housing payments, which means that they have less budget available for other child-rearing needs.⁸⁴

B. The financial sector's Social Housing Scheme

The financial sector's voluntary Social Housing Scheme was encouraged by the Spanish Government for the creation of a housing stock, owned by credit institutions, and aimed at renting for a limited period of time for people who lost their home due to inability to pay the rent or to repay a loan. Applicants must be in a situation of special social vulnerability, including family units with minor children, or single-parent family units with two or more dependent children, among others.

The Social Housing Scheme currently manages 9,866 homes, with social rents ranging from €150 to €400 per month, with a maximum limit of 30% of the household's total net income.⁸⁵

⁸¹ Ibid., p. 46.

⁸² Ibid, pp. 47-49.

⁸³ Ibid., p. 32.

⁸⁴ Encuesta de Condiciones de Vida (Living Conditions Survey of the National Institute of Statistics. Data quoted from Save the Children's press release, available here: <https://www.savethechildren.es/notasprensa/encuesta-de-condiciones-de-vida-aumentan-los-ninos-ninas-y-adolescentes-que-no-tienen>

⁸⁵ Report "Nobody can afford to live here: An analysis of families' housing affordability difficulties in Spain", 2023, p. 55.



Save the Children Spain believes that, while relevant and necessary in order to meet the demand for housing in this country, this measure is insufficient, and could end up becoming another cause of residential exclusion of families in vulnerable situations. For this reason, Save the Children proposes that the State should make a greater commitment in terms of financial investment in public housing policies, aimed at addressing the urgent and imminent need to mitigate the economic vulnerability of families with the greatest difficulties.

C. Evictions

Introduction

The boom and collapse of real estate activity in the first decade of the 21st century made the mortgage debt assumed by many families unsustainable. As a result, evictions became more visible than ever before as the most extreme form of residential exclusion, especially among children and adolescents.

Subsequently, the COVID-19 pandemic not only led to an increase in poverty and exclusion followed by the cost-of-living crisis triggered by the war in Ukraine. This had an impact on the real burden of rents and, after an increase of interest rates, on mortgage payments too.

The Committee's concerns

The Committee requested in its 2019 Conclusions information on procedural safeguards against unlawful eviction, such as alternative solutions to eviction, reasonable notice period, legal remedies, access to legal aid and compensation in case of unlawful eviction.

The European Committee of Social Rights points out that, in order to comply with the Social Charter, the legal protection of persons threatened with eviction must be prescribed by law and include a prohibition on carrying out evictions at night or during the winter. The Committee therefore requested that, in the next report, the State indicates whether this prohibition exists in law or in practice, provide updated figures on the number of evictions actually carried out, and examples from national case law as to whether judicial review in this area includes an examination of the proportionality of the eviction.

The State's response

In its 2023 report, the State refers only to the fact that the new housing law improves the eviction procedure when it concerns the home of vulnerable households. Thus, it aims to ensure effective and rapid communication between the judicial body and the social services, which will have to assess the situation and, if necessary, provide rapid assistance to persons in a situation of economic and/or social vulnerability.

On the other hand, the eviction period is extended, to allow time to resolve these cases, from one to two months when the owner of the property is an individual and from three to four months when the owner is a company.

The reference is merely to legislative reform, but it does not provide an answer to the problem of vulnerable families or to the implementation of public policies to counteract the negative effects of evictions on families.

Finally, the State also points to case law on the proportionality test carried out by judicial bodies in eviction proceedings, and provides the figures on evictions requested by the Committee.

Save the Children Spain's assessment

Save the Children Spain, in its recent report on housing,⁸⁶ pointed at the capacity of the Spanish State to legislate on protection against evictions, as a fundamental point of action. As mentioned, this is an extreme form of residential exclusion with serious effects on the wellbeing and dignity of children.

Some of the key data analysed relate to the fact that, in the event of an eviction, the presence of children in the home is a particularly vulnerable situation and triggers the intervention of social services.

Although there are no concrete figures due to the lack of disaggregation in official statistics, since 2008 in Spain there have been nearly 700,000 evictions. It is also estimated that between 70% and 80% of evictions affect families with children and adolescents in their care.⁸⁷ According to data from the General Council of the Judiciary, in 2022 a total of 38,266 evictions were carried out, of which almost 72% were evictions of people living in rented housing, and 22.2% corresponded to non-payment of mortgage loans. Although this was a decrease of 7.5% compared to the previous year, it should be borne in mind that these evictions took place despite the extraordinary measures adopted during the pandemic, and extended, precisely to suspend evictions.⁸⁸ Unfortunately, these data do not provide information on the children affected by these evictions.

With regard to current national legislation, Law 1/2013⁸⁹ contemplates the presence of children or adolescents as one of the cases in which evictions can be suspended. This is so, as it is considered a case of special vulnerability that includes

⁸⁶ Ibid.

⁸⁷ Ibid., p. 59.

⁸⁸ General Council of the Judiciary, press release of 3 March 2023, available at: <https://www.poderjudicial.es/cgpj/es/Poder-Judicial/En-Portada/Los-concursos-aumentaron-por-septimo-ano-consecutivo-al-registrarse-en-2022-un-46-3---mas-que-en-el-ejercicio-anterior>.

⁸⁹ Law 1/2013, of 14 May, on measures to reinforce the protection of mortgage debtors, debt restructuring and social renting, Chapter 1, Suspension of evictions, Article 1: Suspension of evictions from habitual homes of particularly vulnerable groups. Disponible en el siguiente link <https://www.boe.es/buscar/act.php?id=BOE-A-2013-5073#:~:text=Ayuda-Ley%201%2F2013%2C%20de%2014%20de%20mayo%2C%20de%20medidas,de%2015%2F05%2F2013>.

other cases such as the existence of large families, single-parent families with at least one dependent child, provided that they include a minor, and those in which one of their members has a recognised degree of disability equal to or greater than 33%, among others.

In addition, the Civil Procedure Act provides for the intervention of social services in such eviction proceedings, who must verify the existing situation of vulnerability.

In addition to the existing regulatory framework, emergency anti-eviction regulation gained prominence during and after the pandemic. However, little priority and protection were afforded to children and adolescents.⁹⁰

For its part, it is extremely important to mention that the United Nations Committee on Economic, Social and Cultural Rights - hereinafter CESCR -, in its concluding observations on the sixth periodic report of Spain (dated 28 March 2018), expressed its concern about the absence of an adequate legislative framework that offers legal and procedural regulatory guarantees to affected persons, among whom there are of course children and adolescents.⁹¹ The CESCR has also adjudicated in the context of the individual communications procedure, in which it has declared that evictions of families with children had constituted a violation of different provisions of the International Covenant on Economic, Social and Cultural Rights.⁹² Therefore, Save the Children Spain believes that it is necessary for the Spanish State to be aware of the remarks made by this Committee on the problem of evictions and to implement them, in compliance with its international obligations.

Conclusions.

The State has responded partially to the Committee's concerns in its latest report.

SCE considers that there is still much room for improvement both in the legislative sphere and in the implementation of clear public policies to safeguard the right of access to decent and adequate housing for children and adolescents.

Access to adequate housing has a cross-cutting impact on children's access to other fundamental human rights, for if children and their families in vulnerable contexts experience a housing crisis, they are also unable to gain real access to other fundamental rights such as education, health, personal development, leisure and recreation. Lack of adequate housing, forced evictions or homelessness often

⁹⁰ Report "Nobody can afford to live here: An analysis of families' housing affordability difficulties in Spain", 2023, pp. 62-63.

⁹¹ Concluding observations on the sixth periodic report of Spain, UN Committee on Economic, Social and Cultural Rights, April 2018, Available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4sIQ6QSmlBEDzFEovLCuW1SKy xvprlxEitT1iPv5tsG80ELH30lp%2BURW%2Fv0pMkQcf61TicGbfUD%2BE8x0cF6WYQ%2BRL6 wUrmc2X%2FKqVj0%2Fno13WLw%2BUhxE8WOB6BuLq0OD>

⁹² See, for example, the Committee's Views of 20 June 2017 (Ben Djazia et al.), 11 October 2019 (López Albán) and 10 October 2022 (Hernández Cortés and Rodríguez Bermúdez).

have a profound effect on children because of their specific needs, affecting their growth, development and enjoyment of a range of human rights, in particular those mentioned above.

The stock of social housing is insufficient to meet the high demand for housing needed by families in vulnerable contexts. More public resources must be invested in housing policies. The Committee has established in its jurisprudence that the right to housing enshrined in the European Social Charter is a right of progressive realisation, which imposes obligations of means and not of results. However, this does not mean that the state has total discretion in deciding how it will satisfy it. The Committee has already set out a number of parameters which are:⁹³

- Take the necessary legal, financial and operational measures to ensure steady progress in achieving the objectives set by the Charter.
- Maintain meaningful statistics on needs, resources and results.
- Conduct periodic reviews of the impact of the strategies adopted.
- Establish timetables and not defer indefinitely in time the final date for the achievement of the objectives at each stage.
- Pay particular attention to the impact of the public policies implemented on each of the categories of people targeted, especially the most vulnerable.

Save the Children believes that the State, despite having taken positive steps in recent years, as reflected in its report, is still not on a path in line with the standards set out in the European Social Charter in this regard.

In terms of evictions, SCE believes that anti-eviction protection should be strengthened when children are part of the household. To this end, the flow of information between the judicial system and social services should be improved, and the latter should issue a vulnerability report prior to any judicial action. This report should be a mandatory requirement –and not just optional- when there are children in the family unit at risk of eviction. The new housing law has missed the opportunity to establish this obligation. As the Committee has already indicated on previous occasions, a ban on the execution of evictions during the winter months has yet to be established.

We therefore invite the Committee to remain very attentive to all housing rights issues now that the Spanish State has finally ratified the Revised European Charter and accepted to be bound by its Article 31.

We conclude this report here, hoping that it will serve as a useful source of information for the Committee in fulfilling its monitoring role, and that it will contribute to a constructive dialogue with the State, always in the interests of better realisation of children's rights.

⁹³ Decision on the merits of the Committee in Collective Complaint No. 33/2006, International Movement ATD Fourth World v. France, 5 December 2007, paras. 58-60.