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## **EUROPEAN SOCIAL CHARTER**

Response of the Government of Spain to the comments by the  
Galician Unions' Confederation (CIG)  
on the 29<sup>th</sup> national report  
on the implementation of the European Social Charter

submitted by

### **THE GOVERNMENT OF SPAIN**

(Articles 3, 11, 12, 13, 14, and  
Article 4 of the 1988 Additional Protocol  
for the period 01/01/2012 – 31/12/2015)

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**CYCLE XXI-2(2017)**



**EUROPEAN SOCIAL CHARTER**  
**PERIOD 01/01/2012 - 31/12/ 20165**

**RESPONSE OF THE GOVERNMENT OF SPAIN TO THE OBSERVATIONS REFERRED TO THE CLAIMS OF THE CONFEDERATION OF TRADE UNIONS OF GALICIA (CIG) TO THE 29th NATIONAL REPORT ON COMPLIANCE WITH THE EUROPEAN SOCIAL CHARTER OF 1961, SUBMITTED BY SPAIN IN OCTOBER 2016.**

This paper reports the Government of Spain's reply to the allegations submitted by the Confederation of Trade Unions of Galicia (CIG) to the 29th report submitted by the Spanish Government in October 2016 to the European Committee of Social Rights, concerning compliance by the Kingdom of Spain of the European Social Charter of 1961 (ratified by Spain in 1980), referring to the accepted provisions relating to Theme 2 "Health, Social Security and Social Protection" (Articles 3, 11, 12, 13 and 14 of the European Social Charter). CSE and Article 4 of its Additional Protocol) and whose reference period covered from 1 January 2012 to 31 December 2015 for each of the articles cited.

In addition, additional information was requested on Conclusions XX-4 (2015) relating to thematic group 4 "Children, families and migrants" (articles 7, 8, 16, 17, 19 of the CSE of 1961) in case of non-conformity for lack of information.

In accordance with Article 23 of the European Social Charter, the Spanish Government sent a copy of this report to the workers' organizations.

Almost a year later, on October 5, 2017, the Confederation of Trade Unions of Galicia (CIG) presented observations regarding the thematic group of rights considered in the report.

These allegations have been submitted to the executive secretariat of the European Committee of Human Rights (Department of the European Social Charter), which passed the document for comments, if appropriate, indicating the date of the indicative response of November 2, 2017.

<b>Previous warning</b>
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With regard to the previous warning: publication of an unofficial version of the text of the European Social Charter, the IGC notes, as an initial warning, that the publication in Spain of the European Social Charter was done through an instrument of ratification dated 29 April 1980 and which was published in the Official State Gazette (BOE) on 26 June 1980. This publication is in Spanish.

In this way, the IGC understands that since the English and French languages are the only official languages of the Council of Europe, an unofficial version of the European Social Charter has been published in Spain, which would represent a legal-diplomatic error.

In view of the previous warning, it is important to point out that, according to article 1 of Royal Decree 181/2008, of 8 February, on the order of the official gazette "Official State Gazette", the BOE, **as the official Spanish State, is the means of publication of laws, provisions and acts of mandatory insertion.**

And as stated in Article 3.1 of the Spanish Constitution, "**Castilian is the official Spanish language of the State.**"

Consequently, it seems logical and legitimate that the publications that are made in the official journal of a State, be made in the official language of that State. And this especially when the purpose of the publications in the BOE is to make known to the citizens residing in national territory the laws, dispositions and acts that result of application in the territory of the State. In this way, compliance with the mandate contained in Article 6 of the Civil Code becomes effective, which states that "*ignorance of the laws does not excuse their compliance.*"

And this in relation to the content of the same Article 3.1 of the Spanish Constitution, which means that "All Spaniards have a duty to know it and the right to use it."

It should also be noted that Article 3.1 of Royal Decree 181/2008 also states that "The text of the laws, provisions and acts published in the" Official State Gazette "***shall be considered official and authentic***, in accordance with the norms and conditions that are established in this royal decree."

Given the above, the observation made by the IGC about the publication in the BOE of an unofficial text is completely meaningless, since the publication in the BOE must be done in the official language of the State in which the publication is made, with the purpose of publicizing and allowing its effective fulfilment to the citizens residing in the same.

Notwithstanding the above, any citizen with knowledge of other languages has at his disposal and disposition all the normative texts and publications, in other languages of the Member States, in the official Web page of the Council of Europe. So no harm is done to his/her rights.

### **Article 3. Right to health and safety at work**

#### **Accidents and occupational diseases**

The Confederation of Trade Unions of Galicia (CIG) points out that the situation in Spain is not in accordance with Article 3.2 based on the rates of work accidents, compared with the average of EU countries.

At this point it is important to emphasize, as it is done in the 29th report presented by Spain, that there are two statistical sources (national and European) and that, for the sake of a correct interpretation of the data, cannot be mixed.

So it is not possible to refer to the MEYSS data to indicate the increase in the accident rate in the period 2012-2015 and then refer to the average of European countries whose data are taken from Eurostat, whose methodology is different.

In the case of European statistics it is primarily desired to have a uniform statistic for the whole European Union so that data can be compared between the different Member States, whereas in national statistics it is sought to cover all cases recognized as work accidents according to national legislation, beyond those contemplated in European statistics.

In this sense, it is necessary to **remember that accidents *in itinere* do not compute in the European statistics**, therefore it is not possible to compare the data of Spain with other countries.

**Nor are the so-called non-traumatic pathologies included in European statistics** such as heart-stroke accidents, strokes, etc. which Spanish legislation recognizes as work accidents due to having occurred during the working day, although in almost all countries of the European Union are not considered work accidents.

Therefore, what is seen from the analysis of Spanish legislation and the measures adopted to comply with the rules is that Spain is a country that offers greater protection to its workers than other EU states, having a more guaranteeing legislation which offers greater legal coverage when contemplating as an accident at work situations that in other countries are not considered as such.

So it does not seem reasonable to penalize Spain for having better coverage and protection for workers and calling into question the fulfilment by Spain of the European Social Charter by IGC.

Further, from the **National Institute of Safety, Health and Welfare at Work (INSSBT)**, it is stated that the first percentage indicated by the IGC refers to work accidents with low hours of work, while in the same paragraph, when they provide the following two data, they refer to the sum of accidents at work and accidents at work *in itinere*.

In this sense, and to make them comparable, the INSSBT provides data corresponding to work

accidents with low work hours, being 458,023 by 2015, of which 515 are fatal.

Also, when the IGC points out the precariousness of work as the main cause of this increase in accidents, the INSBBT wants to state that in the workplace accidents, a multitude of parameters, economic, demographic, structural, etc., are involved, so that a single cause to which attribute the increase in the number of accidents should not be defined. At the same time, the population affiliated to Social Security with the contingency of occupational accident and occupational disease covered was, on average, in the year 2015 of 14.08 million workers, a figure that reflects a 3.2% increase over 2014. But this increase has not been sectorially homogeneous since in recent years there has been a rebound in construction activity, which increased its affiliated population by 5.4%. The increase of the activity of the companies entails both an increase of the working population and a greater intensity in the productive cycles. Both circumstances lead to greater exposure to the risks present in the work, which is often reflected in an increase in work-related accidents.

On the other hand, when the IGC expresses that the increase in the frequency rates of accidents is higher in women, the INSBBT states that, considering the source of information used in the report presented by the Spanish Government, namely the Yearbook of Labour Statistics and Social Affairs 2012-2015, there are no published indexes in the Ministry of Employment and Social Security of occupational accidents frequency by sex of the worker, and therefore it can not be contrasted the information issued in this sense by the IGC.

Finally, when the Galician union treats accidents *in itinere*, it is reported from the INSBBT that, given the hypotheses raised in relation to the greatest number of accidents *in itinere* in women, no causal studies are known that contrast these hypotheses.

Therefore, and in conclusion, on the basis of the above, it must be affirmed that Spain complies with the provisions of the European Social Charter.

### **Activities of the Labour Inspectorate**

The IGC refers in its comments to various issues relating to the Labour Inspectorate.

Thus, it points out,

1). "In its previous conclusion (XIX-2, 2009), the Committee noted that the report did not provide new information on the structure, terms of reference, staff employed and the number of inspections carried out by inspection departments . It therefore requested that the next reports should indicate whether there had been changes in the inspection system during the reference period. "

With regard to this issue, it should be noted that the Kingdom of Spain has already provided exhaustive information on these issues in the 29th report on the implementation of the European Social Charter, see pages 30 and following.

2) The IGC makes comments on the issue **of strengthening the workforce** of the Labour Inspectorate.

In this respect, in addition to what has already been stated in the 29th Report on the implementation of the European Social Charter, it is necessary to focus on the following issues:

#### a) Number of staff of the ITSS System:

Firstly, it is necessary to remember that since the approval of Law 23/2015, of July 21, Order of the Labour Inspection and Social Security System (LOITSS), the Inspection is made up of the following personnel with an inspection function:

- Superior Body of Inspectors of Labour and Social Security.
- Body of Employment Sub inspectors for Employment and Social Security.
- Body of Occupational Safety and Occupational Sub inspectors.

Regarding measures taken or envisaged to strengthen the Labour Inspection and Social Security

System in terms of the number of officials with competence in the field of Occupational Risk Prevention (Article 3 of the European Social Charter, the right to safe and healthy working conditions), it should be pointed out that Law 23/2015 represents an advance in line with the provisions of the European Social Charter, as a new Sub-Occupational Safety and Health Sub-Inspectors Scale is created within the Labour Sub-Inspectors Corps with specific functions in the field of occupational risk prevention, which allows the Inspectorate's action in this area to be expanded and strengthened.

Although the budget of the Public Administrations was affected by the impact of the economic crisis, the number of ITSS System inspectors increased in the years of greatest economic crisis, as shown in the table below, which indicates the annual average of Inspectors and Sub-inspectors during the said period of time; the average annual figure is to be included, since during the year there are changes in the number of members with inspecting functions in the ITSS System (retirement, incorporation of new staff that go beyond the selection processes, reinstatement of officials to the System of ITSS, among others) that make this a dynamic figure and therefore closer to reality, than a static figure in a given period of time.

**ANNUAL AVERAGE**

<b>CIVIL SERVANTS</b>	<b>2009</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>
<b>Inspectors</b>	8 91	94 0	94 2	959	979	98 1	960	960
<b>Sub-inspectors</b>	9 07	91 7	92 4	912	899	86 1	840	837
<b>TOTAL</b>	<b>1.79 8</b>	<b>1.857</b>	<b>1.866</b>	<b>1.871</b>	<b>1.878</b>	<b>1.842</b>	<b>1.800</b>	<b>1.797</b>

a) Public job offer regarding officials of the ITSS System:

In this regard, it should be noted that the calls for posts for each body of the Labour Inspection and Social Security System are carried out by the Ministry of Employment and Social Security and must contain the number of posts authorized by the Council of Ministers in the Royal Decree approving the Public Employment Offer of the General State Administration.

As a result of the effort made by the Government to improve the ITSS System, the budgetary effort has led to the maintenance of the public offer of employment for such civil servants (which has not happened with respect to other officials), despite the difficult economic context.

Equally as an example as a good practice, it is necessary to re-recall what was stated in the 29 CSE compliance report in 2015, in addition to the places provided for in the ordinary public employment offer (Royal Decree 196/2015, of 22 March, approving the public employment offer for 2015), Royal Decree-Law 3/2015 of 22 March was approved, which provides for an extraordinary and additional public employment offer to fight against fraud in public services, to boost the functioning of the Justice Administration and in application of the measures provided for in Law 27/2013, of 27 December, on the rationalization and sustainability of the Local Administration.

In which article 3 stated the following:

*Article 3. Supplementary offer in the field of the fight against labour fraud and Social Security.*

*In 2015, in addition to the number of posts allocated in the distribution of the replacement rate provided for in article 21 of Law 36/2014, of December 26, of General State Budgets for the year 2015, it is authorized the call of 150 posts in the area of the fight against labour fraud and Social Security, of which 19 posts in the Higher Corps of Labour and Social Security Inspectors, 13 posts in the Higher Body of Auditors and Auditors of the Administration of Social Security, 5 posts in the Superior Body of Lawyers of the Social Security Administration, 25 posts in the Higher Corps of Technicians of the Social Security Administration, 43 posts in the Corps of Sub inspectors of Employment and Social Security, 27 posts in the Management Body of the Social Security Administration, and 18 posts in the Management Body of the Social Security Administration, specialty of Audit and Accounting, through the system of incorporation of new personnel to perform their functions in the Ministry of Employment and Social Security and in the Social Security Management Entities.*

The inclusion of posts of Inspectors and Sub-inspectors during these years in successive Public Employment Offers has allowed to increase the number of Labour Inspectors and Social Security, and to maintain - and in some moments to increase - the number of Sub inspectors of Employment and Social Security, despite the context of economic crisis and the reduction of staff that is ordinarily produced due to leave, retirement, death, etc.

The commitment expressed with the Labour Inspection and Social Security System has continued in 2016, in which calls have been issued to cover a significant number of posts in all its Bodies.

Thus, through Order ESS / 1460/2016, Order ESS / 1459/2016 and Order ESS / 1458/2016, all of September 7 and published in the BOE on September 13, 2016, **selective processes were to cover 53 posts for Labour Inspectors and Social Security, 50 posts for Labour Sub inspectors, Occupational Health and Safety Scale and 42 posts for Labour Sub inspectors, Employment Scale and Social Security.** These provisions describe their bases and characteristics.

Therefore, the average annual number of officials in the ITSS System, from a "total" point of view, without discounting the possible losses that can be given for different reasons stated above, will potentially be **increased in 145 posts distributed among its different bodies with inspection functions.**

### **3) Ratios in the labour inspection system and Social Security and workers.**

First of all, it should be noted in relation to this issue, that it is not reflected in the European Social

Charter or in any other international instrument with mandatory content ratified by Spain, such as ILO Conventions 81 and 129 on Inspection which in its articles establishes that the number of labour inspectors **must be sufficient to guarantee the effective performance of the functions of the inspection service**. However, it is not specified what should be understood by the number of inspectors "sufficient".

On the other hand, the analysis of the ratio inspectors / number of workers, is a very complex matter, which requires a very rigorous analysis. It is sufficient to point out, as one of the most important underlying problems in tackling this issue, the existence of very different labour inspection models (skills, personnel, specialties ...), which makes it impossible to have comparable data between two or more countries.

As an example, in the French labour inspection system, the duties of labour inspectors (collected in the Code du Travail) may be carried out by other control officers treated as such when a statutory provision so provides (Article L-8112- 3 Code du Travail). These bodies of assimilated control officers are expressly listed in the Code du travail; to the Medical Inspectors of Labour; the agents in charge of control of the companies and the engineers of prevention, among others.

Therefore, in the French system, they are included in order to establish the ratios to other control officials, as well as labour inspectors and labour controllers. As can be seen as published in the Annual Reports of DGT France<sup>1</sup>:

## Quelques chiffres clés

		2013	2012	2011
Champ de compétence	Nombre d'entreprises assujetties au contrôle de l'inspection du travail (en million)	1,80	1,82	1,82
		1,82	18,3	18,3
Organisation	Sections d'inspection du travail	790	790	790
	Nombre d'établissements par section	2 278	2 303	2 303
Personnel (en ETP au 31/12)	Inspecteurs du travail chargés du contrôle des entreprises	781	783	796
	Contrôleurs du travail chargés du contrôle des entreprises	1 320	1 428	1 450
	Agents chargés du contrôle des entreprises	2 101	2 211	2 246
	Assistants au contrôle	864	868	893
	Agents appui-ressources-méthodes (ARM)	92	92	94
	Médecins inspecteurs du travail	35	35	37
	Ingénieurs de prévention	67,7	67	71
	Agents des services de renseignement du public	522	533	544
	Ratio : nombre de salariés par agent de contrôle	8 710	8 229	8 130

### Article 11. Right to protection of health

The IGC concludes that Spain is in breach of the provisions of the European Social Charter by limiting **access to health care for irregular migrants**. They allege the contradiction between the Constitutional Court and the European Committee of Social Rights on the conformity of Royal Decree-Law 16/2012 with the European Social Charter on health care for irregular immigrants.

<sup>1</sup> Source: Bilans & Rapports. L'Inspection du travail en France en 2013. Ministère du Travail, de L'emploi, de la Formation professionnelle et du Dialogue Social.



The literal of article 11, indicates a commitment of the subscribers to:

- *Eliminate, as far as possible, the causes of poor health.*
- *Establish educational and consulting services aimed at improving health and stimulating the sense of individual responsibility in relation to it.*
- *Prevent, as far as possible, epidemic, endemic and other diseases.*

This provision is supplemented by article 13 on the right to social and medical care.

In Spain the recognition of the right to health care, through the National Health System (NHS), requires being in some of the cases that are expected to be the owner or beneficiary of this right. These assumptions are very broad and cover the majority of the population residing in the territory of the state. In this regard, in the 22nd Report submitted by Spain to the Council of Europe on compliance with the European Code of Social Security, it is stated that the resident population in Spain with health care entitlement reaches 99.9%.

Likewise, other cases are contemplated in Spain, in which the persons who are in them can benefit from the right to health care, among them the following are envisaged:

- Health care for returnees of Spanish origin and for Spanish workers and pensioners of origin residing abroad temporarily displaced to Spain, and for the relatives of the previous ones who establish with or accompany them.
- Health care in application of Community regulations and international conventions.
- Health care for people with disabilities.
- Special regimes of civil servants.

And, among those that especially highlight the assumptions of groups at risk where the IGC considers that Spain does not comply with Article 11, which are:

- Foreigners not registered or authorized as residents in Spain: This group will only have access to coverage in special situations (minors, pregnancy, emergency ...) and the service will be provided directly by the National Health Service. In no case will the citizens of the EU / EEA / Switzerland be considered as foreigners who are not registered or authorized as residents in Spain during a stay of less than three months. Regulation: art. 3 Law 16/2003, of May 28; art. 6 RD 240/2007 of 16 February on the entry, free movement and residence in Spain of citizens of the Member States of the European Union and of other States party to the Agreement on the European Economic Area; GIVES. 2nd RD 1192/2012
- Provision of health care for applicants for international protection.

*The persons applying for international protection whose stay in Spain has been authorized for this reason during the period of processing of the asylum file have health coverage with the extension provided **in the basic common portfolio of health care services of the National Health System**, as established by the additional provision four of Royal Decree 1192/2012, of August 3, in the wording given by the fourth final provision of Royal Decree 576/2013, of July 26.*

***During this period, the applicant for international protection is not insured and his health coverage is managed directly by the Public Health Service of the Autonomous Community.***

*The recognition of the right of asylum will entail the recognition of the rights established in the Geneva Convention on the Status of Refugees, in the current legislation on immigration and immigration, as well as in European Union legislation, and, in all cases:*

- *The authorization of residence and permanent work, in the terms established in Organic Law 4/2000, dated January 11, on the rights and freedoms of foreigners in Spain and their social integration.*
- *Access to employment services, education, health care, housing, social assistance and social services, to the rights recognized by the legislation applicable to victims of gender-based violence, as appropriate, social security and integration programs, under the same conditions as the Spanish.*

**Once the right of asylum and, therefore,** *refugee status has been recognized, the person concerned has a permanent residence permit and, as a consequence, he/she can apply for health insurance before the INSS through article 2.1 (b) of the Royal Decree 1192/2012, of August 3, provided that they accredit the rest of the required requirements (not having health coverage recognized by other means: worker, unemployment benefits recipient ...).*

*In conclusion, it is considered that Spain gives due fulfillment to the obligations imposed by both Article 11 and those of Article 13 in the field of health protection.*

On the other hand, It should be noted that the objective of the new legislation was to ensure the viability of the public health system and to avoid so-called "health tourism".

The content of Royal Decree Law 16/2012 maintains the criterion that the existence of a legal situation of administrative irregularity cannot be a source of rights that equates those who are in it with the own nationals or with the foreigners in regular situation. For this reason, foreigners in an irregular administrative situation will be entitled to health care in cases of emergency. But also foreigners under 18 years of age, and foreign pregnant women for health care during pregnancy, childbirth and postpartum, are equated with the Spanish.

In addition, Royal Decree 1192/2012 of 3 August, which regulates the status of insured and beneficiary for the purposes of health care in Spain, charged to public funds, through the National Health System, in its Additional provision four, provides that applicants for international protection whose stay in Spain has been authorized for this reason will receive, as long as they remain in this situation, the necessary health care that will include emergency care and basic treatment of diseases. Likewise, medical or other necessary care will be provided to applicants for international protection with particular needs. Additional Provision Five provides the same for victims of trafficking in human beings whose temporary stay in Spain has been authorized during the period of re-establishment and reflection.

In this way, it is guaranteed to grant legally resident foreigners the same protection as the Spaniards, and to those who are not in this legal situation, only in the cases outlined above.

It should be noted that the current system on the right to health care in Spain may be considered more generous than that established in most of the signatory States of the European Social Charter.

In addition, the European Agency for Human Rights points out in a report, referring to the right to health care of the Member States of the European Union - contemplated in the systems of access to medical care beyond emergency care - that it is linked to some type of recognized status (legal residence, insured, registered employment, registration in a local registry) that may exclude some categories of irregular immigrants from access to health care services beyond the care of urgencies.

## **Article 12. Right to social security**

**With respect to article 12, paragraph 1,** the IGC considers it unfulfilled. Mention is made of the amount of Eurostat's equivalent median annual income and of the amounts of the Public Multiple Income Indicator (IPREM) for determining the amount of unemployment and sickness benefits.

In particular, the Committee notes that the level of benefits (sickness and unemployment) fell below 50% of the median equivalent income and asked whether additional benefits would be granted if the minimum level of the benefit.

In this respect, it is stated that the amount of the temporary incapacity benefit is obtained, as a general rule, from the calculation of the regulatory base, which is the result of dividing the amount of the worker's contribution base in the month prior to of the date of initiation of the disability by the number of days to which said quotation refers. The following percentages are applied to the amount obtained:

- In the case of common illness and non-occupational accident, 60% from day 4 to 20 inclusive, and 75% from day 21 onwards.
- In the case of occupational accident and occupational disease, 75% from the day on which the birth of

the right occurs.

The amount of temporary disability is therefore determined in proportion to the income obtained in the previous month (contribution basis), there being no limits on the amount or reference to the IPREM, as the IGC points out.

**The IGC also considers Spain to be in breach of Article 12 (4)** because nationals of Member States who do not have a bilateral agreement or agreement concluded with Spain cannot benefit from social security rights in Spanish territory. In this way, The IGC notes that there have been no Conventions with a number of countries, which he lists.

To this effect, we reiterate what has already been pointed out by the 29th Report of Spain. On the one hand, in accordance with Organic Law 4/2000, of 1 January, on the rights and freedoms of foreigners in Spain and their social integration, foreigners have the right to exercise remunerated activity and access to the system of Social Security, in the same conditions as nationals.

On the other hand, Spain has signed bilateral agreements on social security with 23 countries, rules that guarantee the principle of equal treatment, the export of benefits and the aggregation of contribution periods.

As far as the European sphere is concerned, Regulation (EC) No 883/2004 on coordination of social security systems provides for coordination measures in this area and applies in all Member States of the EU, EEA and Switzerland.

Bilateral and multilateral agreements signed by Spain in matters of Social Security can be consulted in the following link :

[http://www.seg-social.es/Internet\\_1/Masinformacion/Internacional/index.htm](http://www.seg-social.es/Internet_1/Masinformacion/Internacional/index.htm)

With respect to the countries for which no agreement has yet been reached, it is indicated that the negotiation is bilateral, which depends not only on the Spanish State and that Spain is open to future negotiations in order to reach agreements beneficial to the own nationals and those of other countries.

### **Article 13. Right to social and medical assistance**

The IGC considers that minimum income benefits, with the exception of the Basque Country and Navarra, are manifestly insufficient and are subject to compliance with age, residence and minimum income requirements.

The present allegation refers to the powers of the Autonomous Communities, that is to say, social assistance, in accordance with article 148.1.20 of the Spanish Constitution.

Although it is important to note that in the area of Social Security, provision is made for contributory and non-contributory benefits that offer coverage to different and varied situations of need.

Although in general terms the general situation described by the IGC remains true in the majority of cases, it must be taken into account, first of all, that they refer to the provision of the Minimum Income of Insertion, which is the exclusive competence of the Autonomous Communities and that supposes less than 7% of the System of Guarantee of Rents in our country.

Even if we limit ourselves to the scope of the Minimum Income of Insertion, we must not lose sight of the fact that in the last two years new autonomous legislation has been approved in relation to the Minimum Income of Insertion, generally extending and making more flexible the conditions of its access as is the case of Navarra, La Rioja, Balearic Islands, Catalonia, Murcia and the Canary Islands (these last two via Regulation) or others that are developing new legislation such as Andalusia, Asturias or the Valencian Community.

### **Article 14. Right to the benefits of social services**

The IGC notes that there is no mechanism for monitoring and supervision the actions of non-governmental organizations and other non-public service providers. And there is no proof of equal access to social services provided by the former entities.

In this point we refer to the 29th report of Spain in which it is pointed out the existence of a State System of Information of Social Services (SEISS), by means of which it collects and systematizes the information and data of the social services of Spain, as means of control and supervision thereof. And in relation to Non-Governmental Organizations (NGOs), they are provided with controlled funding through annual calls for grants.

Due to the above, there is a real mechanism of control by the State to those entities in the development of their functions.

#### **Article 4. Additional Protocol: Right to social protection of the elderly**

The IGC indicates that Spain still does not comply with Article 4 of the Protocol, which obliges States to adopt measures for the social protection of older persons, including measures of an anti-discrimination nature.

In this regard, we refer to the ten measures listed in the 29th report carried out by Spain in which the provisions containing social protection measures for the elderly and dependent in Spain, as well as the statistics that accompany them and show the effectiveness of these measures.

In short, this Ministry of State considers the action of the Spanish State to comply with the commitments made in the European Social Charter, and which were reported in the 29th report carried out by Spain in the thematic group on health, social security and social protection