

“Country recommendation

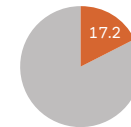
Spain should take action to increase public support for parenting, in line with the Directive (EU) 2019/1158. (Plataforma de Infancia)

Spain should take recommended measures to implement the Organic Law for the comprehensive protection of children and adolescents against violence. (FEDAIA)

Country Profile 2023



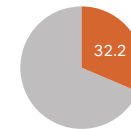
Spain



Child Population:

8,138,086

17.2% of total population (2021)



Child Poverty:

2,620,464

32.2% (2022)

▼ -1.2% compared to 2021

RESPONDENT ORGANISATION(S):

[Plataforma de Infancia](#)

[FEDAIA](#)

Children's Rights in Spain

Within the Spanish Ministry of Social Rights and Agenda 2030, there is a [General Direction of Children's and Adolescents' rights](#) headed by the National Coordinator of the Child Guarantee in Spain. The [Childhood Rights Observatory](#) belongs to the Ministry of Social Rights and 2030 Agenda, with observatories in charge of reporting on the situation of children in each of Spain's 19 autonomous communities. Furthermore, there is a High Commissioner against Child Poverty, which depends on the Presidency of the government.

During the current legislature, great progress has been made in relation to childhood, particularly the [Organic Law for the Comprehensive Protection of Children and Adolescents against Violence](#) (LOPIVI). Additionally, Plataforma de Infancia and

FEDAIA highlighted the [Strategy for the Eradication of Violence against Children](#), the [Strategy on Children's Rights](#), and the [State Council for the Participation of Children and Adolescents](#). Another key policy is the [education law](#) (LOMLOE), passed in 2020.

Plataforma de Infancia and FEDAIA identified the key challenges in relevant areas related to children's rights in Spain and provided recommendations.

Child participation

Following the reform of the Organic Law on the Legal Protection of Minors (LORJM) in 2015, children have a recognised right to be heard when they are mature enough, which is presumed from the age of 12, but not in all cases. Despite this reform, no other necessary regulatory modifications have been made to guarantee that

children under 12 years of age are heard.

The government should strengthen and consolidate robust child participation and children association mechanisms at local, regional, and national level and ensure children's meaningful involvement in the design, monitoring and evaluation of all policies that affect them without limit of age.

All public policies must have a transversal focus on children's rights. This means that public policies must include the participation of civil society and children in each of the phases of the public policy cycle, including transparency and accountability mechanisms.

Child safety and well-being online

From 2011 to 2020, the number of underage victims of crimes

committed online almost tripled, for both sexes. [In 2020, 1,403 complaints were filed that had a boy as the victim and 2,024 complaints in which the victim was a girl](#). The official and public data and statistics, disaggregated by age and sex, are still insufficiently able to identify different forms of violence directed towards children online.

To transform the digital environment into a safe environment for children, the [LOPIVI](#) establishes collaboration with platforms and service providers, as well as the configuration of age verification mechanisms, content labelling, and so on. However, the LOPIVI does not establish measures to effectively prevent children and adolescents from having access to adult content. Furthermore, since 2018 Spain has a pending law aimed at guaranteeing the rights of children and their safety online.¹

¹ Additional Provision 19 of Organic Law 3/2018, of December 5, on the Protection of Personal Data and guarantee of digital rights (BOE no. 294, of December 6, 2018).

It is essential to guarantee that future laws on the protection of children in the digital environment considers General Comment 25 of the Committee on the Rights of the Child. Online access and use must be effectively regulated to prevent minors from being exposed to pornographic, violent, or inappropriate content and internet providers and other companies should be legally obliged to report suspicions of online child sexual exploitation.

Child protection systems

Plataforma de Infancia and FEDAIA are very pleased and welcome that the Spanish government is currently working on a deinstitutionalisation strategy.

According to the latest official available data from 2021:

- There are 56,902 children in the Spanish protection system; 18,455 children in foster care; and 16,177 children in residential centres.
- There are 1,039 children under 6 years of age in residential

care, despite legislation stating that residential care shall not be agreed for children under 3 years of age, except in cases of duly accredited impossibility, and shall be avoided for children under 6 years of age.

- 97.71% of unaccompanied migrant children are in residential care.

Authority intervention should focus on family support programmes and on providing legal guarantees for the procedures related to the withdrawal of guardianship to prevent children from entering the protection system. Foster care should be promoted as a priority measure and deinstitutionalisation measures must be urgently taken for children under 6 years of age.

Residential settings must guarantee the respect of a rights-based approach, by ensuring that they are safe, of good quality, flexible, participatory, with individualised care, maximum of 6 children per place, and with accessible and adapted communication mechanisms.

Working with families of origin to favour family reintegration for children is absolutely essential.

The rights of adolescents transitioning into adulthood must be respected, as part of the State's obligations to support their independent living.

Children impacted by war and conflict

Spain continues to sell weaponry to countries involved in armed conflict, including those [that recruit and use children in these conflicts](#).

The country should legislate to suspend the sale of defence material and deny new authorisations for the transfer of such material to countries involved in armed conflict, where serious violations against children are committed or might be committed, as stated in the annual reports of the UN Secretary-General. The Inter-ministerial Regulatory Board of Foreign Trade in Defence Material and Dual Use should consider these criteria.

Spain should modify *article 112 of the Royal Ordinances of the Armed Forces* to include the protection offered by the Optional Protocol regarding the participation of boys and girls in armed conflicts.

Children in migration and refugees

Spain has showed an inadequate response to the migration crises, including the concern regarding the lack of official data on the arrivals of migrants, overcrowded and unsanitary conditions, lack of legal aid, difficulties in identifying vulnerable individuals, and lack of resources. The country also presented various challenges in relation to the identification of children seeking international protection, and lack of a child-focused approach in the asylum procedure with the repatriation of migrant children and other vulnerable individuals not complying with the legally established guarantees of protection.

As of January 2022, the Committee on the Rights of the

Child has issued 15 views against Spain and it has declared that the current age determination procedure in the country violates children's rights. Moreover, the country has seen an increase in the criminalisation and stigmatisation of unaccompanied migrant children, hate content on social networks, and in the media's treatment of news regarding unaccompanied migrant children.

The unaccompanied migrant children must be treated as children first and a plan for 'the Prevention of the Criminalisation of Unaccompanied Migrant Children' must be adopted.

The new age assessment procedure for unaccompanied migrant children needs to incorporate the opinions of the Committee on the Rights of the Child.

The common information system provided in the *Model for the management of migratory contingencies for unaccompanied children and adolescents* must be effectively implemented.

The access to the international protection procedure must be guaranteed to all children. A procedure for the identification of individuals in vulnerable situations at the border must be adopted and professionals must be trained on the conditions and needs of the most vulnerable children.

The repatriation of unaccompanied migrant children needs to be put in place only when it is based on a rigorous analysis of the children's best interest and when their safety and well-being in the country of origin can be ensured.

Climate change and environmental impacts

The right of children to a healthy environment has begun to form part of the political agenda at the national level. Young people have played an essential role in defending this right.

The political agenda must prioritise the fulfilment of the *Declaration on Children, Youth*

and Climate Action and establish mechanisms to monitor its fulfilment. Children's participation in the governance and decision-making mechanisms of the environmental agenda must be ensured.

There is also a need to improve the knowledge about the impact of environmental degradation and climate change on children.

A child-friendly approach to the new urban development plans must be ensured, by paying special attention to the creation and maintenance of green spaces that take into account the rights of children as well as to prioritise infrastructures that help reduce the impact of heat (blue zones), such as water fountains, access to public swimming pools, and so on.

Children's mental health

Despite an alarming increase in the child population affected by mental health problems, the necessary support measures are still not being established.

There is a need to implement a 'National Mental Health Policy for Children and Adolescents' by mainstreaming the child-rights approach in the new National Mental Health Strategy and the right to mental health in the new *National Strategic Plan for Children and Adolescents*.

The specialty of Clinical Child and Adolescent Psychology should be created, and all schools should have a psychologist as well as invest in awareness raising programmes.

Poverty and Social Exclusion – Experiences of children, families, and communities

Child poverty in Spain

Spain has a total child population of 8.13 million, 32.2% of which live at risk of poverty and social exclusion in 2022. This is the third highest rate in the EU, although the rate of children at risk of poverty and social exclusion has decreased since 2021 (33.4%). This decrease is mainly thanks to

urgent actions in the social and economic fields implemented by the government of Spain to address the situation caused by the Covid-19 pandemic (Escudo Social measures).

The worrying rate of child poverty and social exclusion in the country indicates [the need to allocate more and better public resources to the fight against child poverty](#). For example, Spain dedicates only around 1.6% of GDP in child protection policies, when the European average is 2.5% of GDP.

Households with 3 or more children are the most affected by poverty in Spain and single-parent households are especially vulnerable. Other groups of children in need are the children whose parents are immigrants, who have a poverty rate of 71.1%, and the teenagers (between 13 and 17 years), who have the highest risk of poverty rate among children (35%).

To help tackle child poverty and social exclusion, the Spanish government should:

1. Guarantee access of the most vulnerable children and families to the Minimum Vital Income (Ingreso Mínimo Vital) scheme approved in May 2020, which provides cash benefits to individuals and families with incomes below the at-risk of severe poverty. The effective implementation of this measure must be ensured, and the necessary assistance must be provided to apply for its concession, among other issues.
2. Increase [family and parenting support](#), for example by establishing universal parenting aid through refundable deductions in personal income tax. The aim of this measure is to increase financial support to cover the costs of raising children, to reduce inequality in access to tax benefits by households with lower incomes and prevent and reduce child poverty and its intensity.

3. Guarantee universal and free access to early childhood education and care (0-3 years), with a special focus on the most vulnerable children and families and ensure a greater number of places are available.

The European Child Guarantee

Spain's National Action Plan

The National Action Plan (NAP) of Spain was published on 11 July 2022.² The NAP rightfully identifies the children most in need in the country, including children at risk of poverty or social exclusion, children with disabilities, migrant and refugee children, Roma children, children in the child protection system, children living in single-parent households, children experiencing severe housing deprivation, children in conflict with the law, and victims of trafficking or sexual exploitation.

Moreover, the NAP explains the challenges that Spain faces in relation to access to education, health, and adequate housing, and provides recommendations to ensure the rights of children, especially those living in vulnerable situations.

The NAP includes indicators and a monitoring framework. Deadlines are established for follow-up reports, to create spaces for knowledge exchange, and to carry out interim and final evaluations by 2030. It will be crucial, however, that they are effectively implemented and that the measures are adjusted to the real needs of children and their families in Spain.

Plataforma de Infancia has participated in the creation of the indicator to measure the evaluation of the NAP and will continue promoting the implementation of the Child Guarantee in Spain through their work.

² The lists of Child Guarantee National Coordinators and National Action Plans, where published, are available at the bottom of [this page](#).

The fact that regional Children's Councils are not regulated represents a major problem in Spain. Therefore, the Child Guarantee in Spain should help establishing a common regulation for children's meaningful participation.

European Semester 2023 – Country reports and recommendations

Overview of the Country Report: identification of the children in need

This year's European Semester Country report for Spain did not accurately reflect the reality on the ground. The Country Report failed to include children in alternative care. The only reference to deinstitutionalisation is that ESF+ will also support housing for deinstitutionalised children.

The European Semester does not provide much information on education in Spain. Although programmes such as the

Programme for Educational Guidance, Advancement and Enrichment (PROA+) has led to greater investment in education, there is still little investment in infrastructures, scholarships and grants, school services, training, or programmes to improve and support the quality of education.

With regard to early school leaving, the [early school dropout rate](#) in Spain in 2022 stood at 13.9%, still far from the 9.7% average rate in the EU. Another important educational issue in Spain is segregation, which affects the quality, equity, and accessibility of education. The lack of free and accessible places for 0-3 years, the lack of inclusive education for children with developmental disorders, or the administrative obstacles that some children face to attend school, especially migrant children, are other educational challenges that Spain must face.

Although there have been improvements in defining ways to listen to children and ensure they

exercise their right to participate, there are still major gaps especially when it comes to the participation of children from the most vulnerable groups, including asylum seekers and children in alternative care. Children on the move are still in many situations treated as foreigners rather than as children first.

Although Plataforma de Infancia and FEDAIA have not been involved in the Semester Process 2023, they have met with the European Commission to monitor the development of Spain's policies based on past recommendations.

Plataforma de Infancia and FEDAIA regretted that in the Country Report for Spain there are not many specific commitments related to investing in children. They found useful, however, that the report mentions the government's commitment to improve access to early childhood education and care in all autonomous communities. However, it fails

to include a comprehensive and holistic reference to the importance of early childhood development.

Needs analysis: alignment at country-level

The recommendations included in the Country Report do not mention the reforms that Spain needs to have a clear child-rights focus. For example, in the report, education is considered only to achieve better qualifications in the labour market, not as a right of children and adolescents.

Eurochild advocates for children's rights and well-being to be at the heart of policymaking. We are a network of organisations working with and for children throughout Europe, striving for a society that respects the rights of children. We influence policies, build internal capacities, facilitate mutual learning and exchange practice and research. The United Nations Convention on the Rights of the Child is the foundation of all our work.



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the heart of Europe

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