
UN SPECIAL RAPPORTEUR ON EXTREME POVERTY AND HUMAN RIGHTS

2020 VISIT TO SPAIN
JANUARY 27 - FEBRUARY 7

In Spain, there are today 12,3 million (26% of the population) of persons at poverty risk or social exclusion, which represents the 7th position overall within the European Union. In this country, 2,5 million persons are facing hard material deprivation, according to the European Network against Poverty and Exclusion.

The condition of foreigner as a `poverty-discrimination-vulnerability` driver

The condition of “foreigner” has associated a higher rate of vulnerability due to, among other factors, legal instability that often comes together¹. Poverty appears melt with different kind of elements, such as vulnerability, discrimination, racism and xenophobia. Economic studies are proving that, as per average income and inequality, migrants keep on clearly being in a disadvantage situation compared to Spanish nationals. Thus, nationality is a marker to be taken into consideration when it comes to analyse the percentage of people that are below the poverty line, which, in 2016, was: 18,8% for Spanish nationals but a much higher 52,1 for nationals of third countries². As for foreigners of more than 16 years old, the poverty rate has historically been higher than for Spanish, with an upward trend for nationals of European Union member state national (around 70% of total foreigner in Spain in 2018 according to the municipal official census). For third countries nationals other that EU member states, the progression has been a bit more erratic, the poverty average rate been in 2017 almost the same as it was in 2008 (after several ups and downs)³.

Further still, attending to the origin states, some nuances can be observed; in this way, the average poverty rate is lower when the unity of measure for the analyses is the country of birth (which groups those that have already been in Spain for a long period time and, thus, already acceded to the Spanish nationality, altogether with the newly arrived), compared to when we take as for measuring the

¹ As the possibility of renewing residence permits goes hand by hand with the maintenance of an employment, which is, for this group of population, especially precarious and instable itself (“Estrategia Nacional de Prevención y Lucha contra la Pobreza y la Exclusión Social 2019 – 2023 -Madrid, 2019-”).

https://eapn.es/ARCHIVO/documentos/noticias/1553262965_estrategia_prev_y_lucha_pobreza_2019-23.pdf

² Social Forum on Immigrants Integration 2017 Report (Madrid 2018) (*Foro Social para la Integración Social de los Inmigrantes*), 2017 (notably on employment and on asylum system).

³ Estrategia Nacional de Prevención y Lucha contra la Pobreza y la Exclusión Social 2019 – 2023 (Madrid, 2019).

https://eapn.es/ARCHIVO/documentos/noticias/1553262965_estrategia_prev_y_lucha_pobreza_2019-23.pdf

nationality in general terms (which only groups those migrants recently arrived and, so, surely presenting worse integration markers)⁴.

With that in mind, it is to be taken in consideration that the effects of the economic crisis, legislative changes and public policies in the past four years have led to an increasing deterioration in the living conditions of much of the population of Spain, exacerbating the situations of precariousness by increasing the number of people at risk of poverty and social exclusion, and have punished especially for more vulnerable groups, such as asylum seekers, refugees and migrants.

Thus, we have identified several obstacles regarding their rights; this, affecting notably their risk to suffer poverty and social exclusion. In this sense, CEAR has elaborated several recommendations address to authorities and political parties in the frame of both electoral periods in April and November 2019⁵. All in all, CEAR suggests some issues that the Special Rapporteur could be focusing in, as follows:

1. The prevention and the fight against asylum seekers, refugees and statelessness **discrimination** when accessing to their rights, especially ESCR, with special attention to **women, minors and LGTB** people.

In Spain, the persistence of hostile and intolerant attitudes towards migrants is a reality, that, moreover, are currently rising. It should be pointed out the particular vulnerability faced by minors, LGTB and women who belong to these groups, who are facing multiple barriers when it comes to the effective access to rights, notably the ESCR, given their ethnic status, origin or sexual orientation. In addition, because of their legal status, unaccompanied minors are a group of particular attention. What precedes boosts an increased prevalence to poverty and social exclusion.

2. The promotion of their access to an **employment**, brushing the difficulties to the standardization or equivalences of academic qualifications and titles.

The economic crisis has aggravated the situation of unemployment of the migrant and refugee population. Unemployment is the main risk factor in poverty in Spain: 61% of unemployed persons are at risk of poverty and social exclusion (...) 18% of the workers are at risk of poverty and exclusion as a result of job insecurity generated by low wages, temporality, administrative irregularities, the disappearance of labour agreements and the weakening of collective bargaining⁶. The number of unemployed of foreign origin people is greater than that of the native population in such a situation.

⁴ Estrategia Nacional de Prevención y Lucha contra la Pobreza y la Exclusión Social 2019 – 2023 (Madrid, 2019). https://eapn.es/ARCHIVO/documentos/noticias/1553262965_estrategia_prev_y_lucha_pobreza_2019-23.pdf

⁵ https://www.cear.es/wp-content/uploads/2019/10/Documento-Elecciones-Generales_Nov.19.pdf; And: In the framework of the ESCR Platform (In Spanish "Plataforma DESC") https://www.cear.es/respeto-desc-personas_refugiadas/

⁶ DESC Platform Report - Review 2012-2016 - Report of the organizations of the Spanish civil society to the Committee on Economic, Social and Cultural Rights https://a0d0455b-cdb9-43e5-8ea6-ec7abf5fc7c.filesusr.com/ugd/10c749_b8b47d858b7f43f19e6dde4f43d0d10a.pdf

Nonetheless, asylum seekers and refugees are not in equal conditions, compared to Spanish nationals, when acceding and maintaining an employment, in many cases, despite having a good training and experience. Thus, even if they have sometimes occupied posts of responsibility, they normally access to precarious, temporarily and low qualification working positions, with barely not expectations of social advancement, often lead them to situations of vulnerability⁷.

Moreover, the loss of the job makes it difficult to find a new one and that, in the case of the migrant population, makes it impossible to renew their temporary residence cards being pushed out or being forced to return to their places of origin, where in many cases they have already lost their family ties and their social networks. Some of the elements that explains this situation are: language misunderstanding, ignoring mechanisms for searching an employment, lack of a stable housing, lack or insufficient incomes (revenues), unawareness about rights and obligations in Spain, and disregard of labour market structures. In addition, other difficulties can be: problems for the degree's recognition, or to participate in training sessions once in Spain; high expectations non corresponding with reality.

To the different kinds of administrative barriers, it is to be added the stereotypes, beliefs and prejudices generally expanded within the employers. Anyhow, sectors where refugees and migrants finally find a work are: industry, building sector, proximity services and catering or hostelry⁸. In the case of asylum seekers, they are granted a renewable residence permit (every 6 months) and are authorized to work after 6 months from the request. The fact that this is a temporary situation, coupled with the slow resolution of requests for asylum, means in practice that these people are limited in their access to the right to work. In the first months they cannot work and later they find it difficult to be hired, since the contracting parties have no assurance of continuity, and in many cases they are unwilling to invest in the training of someone who can't renew his/her documentation.

Therefore, CEAR recommends to focus on:

- Boosting the employment and social integration of migrants in general, via individualized and comprehensive plans for labour integration.
- Further language skills, professional specialized and diversified training and administrative barriers removal.
- For those already inserted in the labour market but, afterwards, rejected for refugee status, to set rapid solutions for regularisation via social roots or entrenchment

⁷ In addition, these people occupy the lowest-paid and most precarious jobs.

⁸ The shortage of supply and the difficulties in the approval of qualifications, often because of the impossibility of accessing the documentation required in their countries of origin, are some of the elements posing difficulties for equal access to and working conditions of the targeted population.

(“*arraigo social*”) could be implemented in order not to lose the steps ahead already done.

- Last but not least, general sensitivity shall be widespread within civil society and enterprises.
3. The removal of the residence length-based requirements for asylum seekers when accessing **public aids** and alimonies, such as, for instance, dependence subsidies or public-social housing facilities, giving special attention to people in functional diversity situations.
 4. The assurance of a proper access to **housing facilities** for asylum seekers, refugees and statelessness persons⁹.

Refugees and migrants often suffer serious obstacles to access decent housing because of the shortage of supply, the requirements and discrimination in access to it. When they leave centres and reception housing, they are usually unable to neither show economic autonomy nor have any guarantees, they have no payrolls, etc.; essential requirements to get access to rental housing. Inability to make mortgage payments or to confront the high prices of private rentals has sentenced a significant number of migrant people and refugee women to deal with precarious lodgings, which lack the minimal conditions of habitability, or to face overcrowding in housing, in some cases shared with family members and in other cases with strangers¹⁰.

Therefore, CEAR recommends to:

- Assure a good coordination between different administrative levels and to boost their joint responsibility in financing the access to a decent housing, optimizing the existing resources.
- Promote the approval of specific clauses on tax and fiscal incentives for owners renting their houses.
- Take into account the reality of asylum seekers and refugees in the implementation of the 2030 Agenda on sustainable development and of the “Spanish Urban Agenda” in relation with ESCR, among which, the right to housing; assuring the alignment of all these agendas.
- Include refugees in the list of vulnerable persons having the right to ask for a rental contract to the Social Housing Fund (*Fondo Social de Vivienda*) and to assure its continuity once its current running period (up to 2020) will be expired.

⁹ From 2018 on, CEAR launched a Campaign pursuing a better access of refugees to housing facilities, whether it to be within the official reception system or else, once its itinerary is over, as the need for these persons remains essential to guarantee their autonomous development and social inclusion. To guarantee that the “State Housing Plan 2018-2021” prioritizes the social renting for persons in a vulnerable situation, taking into account the special needs of asylum seekers and refugees. See it here: <https://www.cear.es/wp-content/uploads/2019/03/Propuestas-Elecciones-Generales-Vivienda.pdf>

¹⁰ DESC Platform Report - Review 2012-2016 - Report of the organizations of the Spanish civil society to the Committee on Economic, Social and Cultural Rights https://a0d0455b-cdb9-43e5-8ea6-ec7abf5fc7c.filesusr.com/ugd/10c749_b8b47d858b7f43f19e6dde4f43d0d10a.pdf

5. The removal the obstacles for internal mobility within the Spanish territory.
6. The provision of **link classrooms** for newly arrived minors in every public educational centre.
7. The speed-up and the easing of the **family reunification** processes.
8. The removal of the persisting obstacles that asylum seekers and statelessness people face when accessing **health services**.
9. The approval of a law that regulates the **statelessness** condition when it comes to accessing ESCR.
10. The delay in the appointments for asylum and in deciding upon applications, altogether with the lack of updating in the international protection legal framework and the regulatory development of the Asylum Law currently in force, poses great challenges in the access to international protection and subsequently, in the full enjoyment of rights; in this sense, CEAR recommends:
 - To guarantee in-time appointments in order to ensure immediate register and asylum seekers to be granted with proper documentation to accede the reception system.
 - To update the asylum legal framework.
 - To ensure adequate standards all along the international protection procedure, avoiding undue delays in the formalization, instruction and resolution of the asylum procedures. To that end, it is necessary to set enough material and economical means at the disposal of the Asylum and Refugee Office (OAR) and at the disposal of the National Police, and to provide continuous training to this latter. It is urgent to conclude the instruction of the more than 100.000 cases pending resolution.

In addition, in the frame of an eventual decentralization of the asylum system, CEAR wishes the same guaranties to be applied in every Spanish territory and the specialization in the attention to asylum seekers and refugees to be maintained.
11. The removal of the 10th additional provision in the Aliens Law, which intends to provide legal coverage to **illegal pushbacks** which, indeed, hampers the asylum right and, therefore, the access to ESCR for persons that are potentially eligible for international protection.