

SPAIN AND THE GLOBAL COMPACT FOR MIGRATION FACTSHEET

1. PROTECTING MIGRANTS THROUGH RIGHTS-BASED BORDER GOVERNANCE.



OBJECTIVES
4, 8, 9, 10, 11, 13, 21

EXTERNALISATION OF BORDERS



Spain has signed bilateral agreements with Morocco, Mauritania and Senegal that shift responsibility for border control to these countries.

Under these agreements, people are being deported without any guarantee that they will be returned to a safe country.

The current proposal for an EU Pact on Migration and Asylum seeks to strengthen this policy, which essentially outsources human rights obligations.

PUSHBACKS



people forced back over the border into Morocco from Ceuta in less than 24 hours in May 2021.

"Pushbacks" or forcing people back over the border are a common practice in Ceuta and Melilla that violates the principle of non-refoulement.

The Constitutional Court only endorses refoulement when it is conducted on an individual basis, with judicial control and respect for international obligations.

CIE (IMMIGRATION DETENTION CENTRES)



is the length of time a migrant can be deprived of liberty without having committed an offence.

Detention in a CIE is the primary measure under Spanish law for the purpose of deportation or pushback proceedings.

There is no assessment of individual circumstances prior to detention where persons considered vulnerable can be screened out of detention.

CIEs have been criticised for their substandard conditions, including medical services, as well as for infringing on the basic rights of detainees, including access to legal counsel and visits from family members.

INVASIVE AGE ASSESSMENT TESTS



The Committee on the Rights of the Child analysed 14 cases in 2020 which found that Spain's age assessment tests violate the terms of the Convention.

These age assessment techniques are widely discredited, unreliable, and routinely include invasive and humiliating genital examinations.

The denial of status as a minor may leave the individual in a particularly vulnerable situation and may expose children to the risk of human trafficking, among other violations of their human rights.

2. ENSURE THAT MIGRATION IS VOLUNTARY, ORDERLY AND LEGAL.



OBJECTIVES
2, 5, 6, 12, 18

LABOUR MOBILITY MEASURES TO ENCOURAGE LEGAL MIGRATION



nearly
500.000

people living in Spain undocumented because they are unable to meet the requirements of the immigration regulations.



4.404

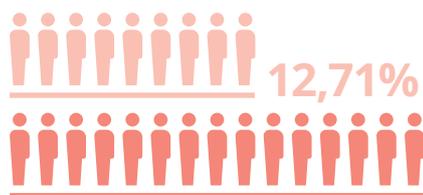
dead or disappeared people trying to reach the Canary Islands by sea.

Authorisations for work-related reasons represent just 27% of the total number of residence authorisations. One reason for this is that the requirements do not correspond to the reality of the Spanish labour market.

Family reunification is also not an affordable solution so that many migrants can legally bring their families. It is a long, complex and costly process that requires information and legal advice that these individuals lack.

The lack of legal channels for migration pushes thousands of people to attempt increasingly dangerous routes to Spain; once on Spanish soil, they are forced to live on the margins of the system, without rights and exposed to multiple forms of exploitation.

LABOUR RIGHTS



20,89%

is the average unemployment rate among migrants in Spain compared to 12.71% for nationals.



-28,3%

The average salary for migrants is 28.3% lower than that of Spaniards.



4 years

It can take up to 4 years for a migrant to get their academic qualifications recognised, forcing them to work in jobs well below their qualifications.

Spain has still not ratified the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

Discrimination and prejudice are also reflected in employment, with the idea that the work of migrants is limited to certain "job niches", limited to low-skilled jobs and tasks.

Sectors such as domestic and care work and the agricultural sector, which have a high percentage of migrant labour, are highly precarious, without the Office of Labour Inspections adopting the measures needed to protect the rights of workers and prevent exploitation.

3. SUPPORT THE INTEGRATION OF MIGRANTS AND THEIR CONTRIBUTION TO DEVELOPMENT.



OBJECTIVES
7, 14, 15, 16, 19, 20, 22

IMMIGRATION LAW



A migrant in an undocumented administrative situation must stay in Spain for 3 years before being able to obtain a residence permit.

Delays by the Administration, of up to 8 months, to process applications for the renewal of residency permits, cause many people to have subsequent undocumented status.



58% of migrants in Spain are at risk of poverty or social exclusion.

Municipal registration is a necessary requirement for most immigration procedures, as well as for access to several rights. However, for many migrants it is an insurmountable barrier that exacerbates their social exclusion.

POLICE STOPS BASED ON RACIAL AND ETHNIC PROFILING



Racially profiled individuals are much more likely to be targeted by the police for identification.

Racial profiling by the police, despite being a discriminatory, humiliating and stigmatising practice, is still not expressly prohibited under Spanish law.

These stops are a tool for express deportations that undermine the legal safeguards for deportees and limit the right to freedom of movement.

ECONOMIC, SOCIAL AND CULTURAL RIGHTS

Migrants must prove at least one year of legal residence in Spain before they can apply for the Minimum Living Wage (MLW).



18,7%

of migrants in Spain live in overcrowded housing.



The exclusion of people with undocumented status and those with less than one year of residence from the MLW leads to the social exclusion of some of the most vulnerable groups.

Lack of availability, eligibility requirements and discrimination in allocation constitute a major obstacle to people's access to decent housing.

EQUAL TREATMENT AND NON-DISCRIMINATION

In Spain, an undocumented migrant who reports being the victim of a crime may be subject to deportation proceedings.



This lack of access to effective judicial protection extends even to migrant women who are victims of gender-based violence when a partner or ex-partner does not perpetrate the violence.

Spain still does not have a comprehensive law on equal treatment and anti-discrimination.

POLITICAL PARTICIPATION



Migrants represent 15% of the total population of Spain, however, 73% of non-EU foreigners with authorised residence do not have the right to vote or to run for office.

The right to vote for foreigners in Spain is limited to municipal elections and subject to the existence of bilateral agreements with the countries of origin.

The exclusion of the right to vote and to run for office deprives migrants of a fundamental way of defending and demanding their rights.

EXCLUSION FROM HEALTH CARE

+ 5.000

reported cases of migrants excluded from health care, despite the fact that some of these migrants suffer from serious illnesses such as cancer, cardiovascular diseases, diabetes, mental health illnesses and HIV.

The requirements imposed by current regulations leave many migrants without health care, notably those who cannot prove they have been in Spain for at least 90 days as well as people who arrive as part of a family reunification process.

Health care for particularly vulnerable individuals such as minors, pregnant women and emergency care is also not adequately guaranteed.

The health crisis caused by COVID-19 has exposed the risk that excluding part of the population from health care poses to individual and collective health.

RECOMMENDATIONS FOR THE SPANISH GOVERNMENT:

- I. Advocate, as part of the negotiations on the new EU Pact on Migration and Asylum, a position consistent with international human rights obligations.
- II. Close Immigrant Detention Centres.
- III. Remove the Tenth Additional Provision of the Immigration Act, which establishes the Special Regime for Ceuta and Melilla that allows for pushbacks at the border.
- IV. Change the Immigration to make it easier to hire people in their country of origin and promote visas for job seekers.
- V. Facilitate family reunification by relaxing the requirements related to sufficient economic means and housing conditions.
- VI. Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, as well as ILO Convention 189.
- VII. Step up labour inspection to ensure compliance with labour rights and put an end to labour and wage exploitation.
- VIII. Accelerate the approval of the Decree that guarantees agile, rapid and simple processes for the recognition of qualifications.
- IX. Modify the Immigration Act to streamline procedures and avoid subsequent illegality.
- X. Guarantee protection of the rights of migrant women who report being victims of gender-based violence.
- XI. Promote extraordinary legalization.
- XII. Adopt the Law on Equal Treatment and Non-Discrimination, guaranteeing its application to people who are undocumented.
- XIII. Expressly prohibit police stops based on racial profiling.
- XIV. Implement support, guidance and intermediation programmes for access to the housing market.
- XV. Include undocumented persons as beneficiaries of the Minimum Living Wage.
- XVI. Modify Royal Decree-Law 7/2018 to recognise the right to health care at public expense for everyone with effective residence in Spain, without requiring a minimum length of stay or differences based on immigration status.
- XVII. Recognise the right of all migrants with residence permits to vote and run for office.



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