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PROCEDURES SPECIALES DU CONSEIL DES DROITS DE L'HOMME

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OFFICE OF THE UNITED NATIONS HIGH COMMISSIONER FOR HUMAN RIGHTS

SPECIAL PROCEDURES OF THE HUMAN RIGHTS COUNCIL

Mandates of the Special Rapporteur on extreme poverty and human rights; the Working Group on the issue of discrimination against women in law and in practice; the Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the human rights of migrants; and the Special Rapporteur on trafficking in persons, especially women and children

REFERENCE: AL Poverty (1998-11) Debt (2000-9) Health (2002-7) G/SO 214 (106-10) Trafficking (2004-5)
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Excellency,

We have the honour to address you in our capacities as Special Rapporteur on extreme poverty and human rights; Chairperson-Rapporteur of the Working Group on the issue of discrimination against women in law and in practice; Independent Expert on the effects of foreign debt and other related international financial obligations of States on the full enjoyment of all human rights, particularly economic, social and cultural rights; Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; Special Rapporteur on the human rights of migrants; and Special Rapporteur on trafficking in persons, especially women and children pursuant to Human Rights Council resolutions 23/7, 17/13, 16/14, 24/6, 17/12, and 17/1.

In this connection, we would like to bring to your Excellency's Government's attention information we have received concerning **the current and potential impact of austerity measures on people living in poverty and migrants in Spain, in particular the effects on the equal enjoyment of their human right to the highest attainable standard of health**.

Concerns regarding the situation of irregular migrants and women victims of trafficking in persons with regard to their access to health were previously the subject of a joint allegation letter sent on 8 February 2013 by the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health and the Special Rapporteur on the human rights of migrants. We thank your Excellency's government for the response providing detailed information to the raised questions. However, according to new information received, we would like to express our concern on the impact of austerity measures on people living in poverty, as well as on

irregular migrants and victims of trafficking in persons, in particular in their access to health.

According to information received:

Spain has undertaken a combination of legal reforms, budget enactments and policy interventions between 2010 and 2013 designed to reduce public expenditures by historic margins at the national, regional and municipal levels. In May 2010, the Government initiated these measures to reduce public expenditure and the public deficit with the approval of Royal Decree-Law 8/2010. In April 2011, the 2011-2014 Stability Program was adopted. Driven by the priority of deficit reduction, reports attest that the package of austerity measures enacted by the Government undercuts the human right to the highest attainable standard of health, particularly for people living in poverty and migrants. Information received alleges that these austerity measures have discriminatory impacts on specific sectors of the population, including migrants, and that they undercut minimum essential levels of socio-economic rights in certain circumstances. Moreover, these austere policy responses to the economic crisis are alleged to be retrogressive in nature, and prohibited under the International Covenant on Economic, Social and Cultural Rights to which Spain is a party since 1977.

According to information received, a combination of budgetary, legislative and administrative measures were established by Royal Decree 16/2012 to rationalize healthcare, including €7 billion worth of cuts to the healthcare sector. Reportedly these and other measures put in place since 2010 have resulted in an overall contraction in the public health budget, which was already low in comparison with other European countries. According to official data, the budget allocated by the national government to public health between 2010 and 2013 experienced an overall contraction of 16.89%.[1] From 2010 to 2011, the budget contracted 8%; from 2011 to 2012, it contracted almost 7%; and from 2012 to 2013, it contracted 3%. In 2010, the budget allocated to public health represented 1.32% of the total budget, while in 2013 it only represented 1.20%. Some autonomous communities, such as Extremadura, meanwhile are reportedly facing disproportionate budget cuts.

Rather than merely temporary budget reductions, information received suggests that the reforms represent a structural modification of the Spanish healthcare system from a model of a human right to health recognized universally for all persons, to a multi-layered model of delivery based on the economic and employment condition of the beneficiary. According to sources, none of these significant measures were informed by ex ante impact assessments to determine any foreseeable adverse consequences for human rights and equality, as required by the Spanish Public Health Law 33/2011 and international human rights norms.

[1] See Gobierno de España, Ministerio de Hacienda y Administraciones Públicas, Estadísticas de los Presupuestos Generales del Estado, 2013 at http://www.sepg.pap.minhap.gob.es/sitios/sepg/es-ES/Presupuestos/Estadisticas/Paginas/Estadisticas.aspx

Furthermore, according to information received Spain remains one of only three countries in the European Union without access to information legislation, and the process to develop such a transparency law remains opaque and not sufficiently open to civil society participation.

The accessibility, affordability, quality and universality of public healthcare in Spain is deteriorating as a result of these government efforts, according to reports. Over 1,000 individual cases of violations of the right to the highest attainable standard of health have reportedly been alleged by credible sources. Three measures are cited as particularly damaging.

First, the number of health professionals in public hospitals has reportedly dropped as a result of a series of wage and hiring freezes in the public sector, affecting both the quality and quantity of public services essential for the right to health. Hospital closures and longer waiting lines have been reported in many autonomous communities, and direct access to medical personnel is reportedly becoming more difficult. Health management systems meanwhile are also reportedly breaking down, with disproportionate impacts on migrants in irregular status—especially those with chronic diseases and who are victims of gender-based violence. The backsliding in medical attention has allegedly had severe, in some cases fatal, consequences for many patients—thereby undermining the minimum essential levels of the right to health.

Secondly, the Government has reportedly introduced a new co-payment system that requires out-of-pocket payments for medicines. According to information received, this new financing system is forcing employed people to pay on average 50 per cent more than previously, including for life-saving essential medicines, regardless of a person's economic capacity. Pensioners on fixed incomes are for the first time forced to pay for their medicines, and are reported to be facing particular burdens as a result of the decreased affordability of medicines. As a result, a significant number of older persons on pensions have reportedly refrained from taking their medically-prescribed medications. Overall, this new out-of-pocket payment scheme is allegedly deterring many people from accessing needed medicines for lack of sufficient resources.

Thirdly, according to government estimates[2] approximately 873,000 people in irregular migration status — amount to 20% of the migrant community in Spain — have been denied their previously guaranteed right to access healthcare by Royal Decree 16/2012. As a result of the deep economic and unemployment crisis in the country, many migrants have lost their jobs, and thus their residency status, are now reportedly being denied access to the public healthcare system to which they have been contributing to for their whole working life in Spain. Although the exceptions in the law establishing universal coverage for emergency medical care,

[2] See Reino de España, Programa Nacional de Reformas, 2013 at http://www.lamoncloa.gob.es/NR/rdonlyres/29B5272B-EC30-478C-80F2-B29D675CD4E7/0/PNREspa%C3%B1a2013.pdf

assistance with pregnancy and childbirth and coverage for children are laudable, information received suggest that uncertainty, fear and administrative uncertainty resulting from the new legislation are also impeding migrants, and in particular irregular migrants, from accessing healthcare, including children and women not accessing prenatal programs and urgent care. Women migrants in irregular status, meanwhile, are reportedly being further denied access to sexual and reproductive services until they are confirmed as pregnant.

Further, the systematic attempt to require firm payment commitments prior to care is allegedly deterring many low-income populations including migrants affected by this Decree from accessing needed care.

In addition, with regard to the situation of victims of trafficking in persons, reportedly those who were granted a reflection and reset period of about 30 days and consequently are entitled to receive health services within this period under the Royal Decree 1192/2012, which introduces new conditions for access to publicly-funded healthcare services in the Spanish National Health System, are in practice not able to receive medical care due to the short duration of reflection period. Moreover, according to the information received, victims of trafficking often are not identified as such, but rather as irregular migrants, which further impedes their access to health services given that under the recent Royal Decree 1192/2012 those with irregular resident migration status are not eligible to have access to public health services on the same terms.

Overall, the new policy is reported to have aggravated a long-standing set of administrative barriers to healthcare by migrants, which have reportedly become even stricter in many autonomous communities. Furthermore, by tying access to basic healthcare to migration status, the measures reportedly deter many eligible people from applying due to fear of migration controls.

The approach adopted appears to attempt to reduce healthcare costs by undermining and reducing coverage for irregular migrants. However this is questionable even on economic grounds, as more equitable financing alternatives seem to exist and the financial benefits of denying preventative and periodic care are likely to be more than outweighed by the additional costs incurred to the emergency care system. Information indicates that all residents, including those in irregular status now denied care, are paying the burden of direct taxes, which finances a significant part of the health budget. Many immigrants who have been paying indirect taxes throughout their working lives, but have recently lost their labour contracts, and thus their regular status, are now reportedly being denied access to the public health system they helped pay for.

In July 2013, the Government passed Royal Decree 576/2013[3] with the objective of establishing a special payment scheme for people who as a result of Royal

[3] Royal Decree 576/2013, of 26 July , «BOE» No. 179, of 27 July 2013, pages 55058- 55065 (8 pages) http://www.boe.es/diario_boe/txt.php?id=BOE-A-2013-8190

Decree 16/2012 lost their access to insurance and to the National Health System. Information received indicates that the monthly rates of between €60 and €157 are unreasonably high for a basic package of health services, and as a result will serve to discriminate against those with few resources who will remain unable to access medical attention and services. Administrative requirements for these special payment schemes require proof of effective residence in Spain for more than one year, again further barring a large group of people from access.

Spikes in communicable diseases, mortality and morbidity have been reported to stem from these deteriorations in the accessibility, quality and affordability of healthcare in Spain, disproportionately affecting older persons, people living with chronic conditions such as HIV/AIDS, migrants, women (especially those disproportionately exposed to gender-based violence) and youth/children, and deepening health inequalities between people living in different regions.

Information received also alleges that the austerity measures are resulting in deterioration of the social determinants of health, in particular decent work and poverty. Decent work has been severely affected, reportedly as a result of weakening of labour protections, specific cuts to jobs programs[4] and overall fiscal contraction. According to information received, the number of people at risk of poverty and exclusion has also spiked due to the Government's austerity policies.

Of particular concern from the information received are the measures freezing the Public Indicator of Multiple Effect Income (IPREM); the hardening of the conditions of access to the Temporary Unemployment Protection and Integration program; the reduction of the benefit for children under two years; the increase of VAT from 16% to 18% and now to 21%; and the effective decrease in pensions, which exposes older persons to risk of falling into poverty. According to concerned sources, the aforementioned measures could severely undermine the human rights of people living in poverty in Spain, particularly their rights to health, housing and an adequate standard of living (e.g. by forcing some people deeper into poverty through cuts in or removal of benefits).

Lastly, several reports suggest that the rapid increase in the Value-Added Tax in Spain in this period has increased the substantial fiscal burden already paid by people living on low incomes. According to European Commission statistics, the number of Spaniards at risk of poverty and exclusion has increased by over two million since 2008, hitting 27 percent in 2011.[5] National statistics show that one in every five Spaniards is at risk of poverty,[6] and this figure rises to more than one in every four for children under the age of 16.[7] Information received estimates

[4] See, for example, Royal Decree 20/2012 of July 13th, 'Measures to Guarantee Budgetary Stability and Strengthen Competitiveness', B.O.E. 2012, 168.
[5] Eurostat database, Population and Social conditions, Living Conditions and Welfare. Available at: http://epp.eurostat.ec.europa.eu/portal/page/portal/statistics/search_database
[6] INE, Levels, Quality and Living Conditions 2012. See: http://www.ine.es/jaxi/menu.do?type=pcaxis&path=/t25/p453&file=inebase&N=&L=0
[7] INE, Levels, Quality and Living Conditions 2012. See: http://www.ine.es/jaxi/menu.do?type=pcaxis&path=/t25/p453&file=inebase&N=&L=0

aggregate poverty of 28.5% in 2014 (nearly 5 points from their value in 2009), rising to 29% in 2015 without declines until at least 2017. In some 1,821,000 homes across Spain, all economically active members are unemployed.[8] In this sense, poverty in Spain since the crisis began has reportedly become more extensive, more intensive and more chronic.

While we do not wish to prejudge the accuracy of these allegations, we would appreciate information from your Excellency's Government on the steps taken by the competent authorities to protect the human rights of persons living in poverty in Spain, including migrants. These rights are enshrined, inter alia, in the Universal Declaration of Human Rights (hereafter UDHR), the International Covenant on Economic, Social and Cultural Rights (hereafter ICESCR, ratified by your Government on 27 April 1977), the Convention on the Rights of the Child (hereafter CRC, ratified by your Government on 6 December 1990) and the Convention on the Elimination of All Forms of Discrimination Against Women (hereafter CEDAW, ratified by your Government on 5 January 1984).

We would particularly like to draw your attention to the following applicable human rights norms and standards.

Article 12 of the ICESCR, which recognizes the right of everyone to the enjoyment of the highest attainable standard of physical and mental health. This includes an obligation on the part of all States parties to ensure that health facilities, goods and services are accessible to everyone, especially the most vulnerable or marginalized sections of the population, without discrimination.

In that connection, the Committee on Economic, Social and Cultural Rights' (hereafter: CESCR) General Comment No. 14 on the right to the highest attainable standard of health (article. 12 of the Covenant) confirms the prohibition of any discrimination in access to health facilities, goods and services.

In particular, the obligation of the State to respect the right to health requires it to refrain from enforcing discriminatory practices, denying or limiting equal access for all persons, including irregular immigrants, to preventive, curative and palliative health services (para 33). Violations of the obligation to respect include the denial of access to health facilities, goods and services to particular individuals or groups as a result of de jure or de facto discrimination and the suspension of legislation or the adoption of laws or policies that interfere with the enjoyment of any of the components of the right to health (para. 50). The Committee further reiterates the Covenant's prohibition of any discrimination in the realization of the right to health on the grounds of, inter alia, sex, national or social origin, sexual orientation, health status (including HIV/AIDS), and civil, political, social or other status (para.18). The principle of non-discrimination applies to all aspects of the right to health and constitutes an immediate obligation (para.30).

[8] INE, Survey of the Economically Active Population: Second Trimester 2013. See: http://www.ine.es/daco/daco42/daco4211/epa0213.pdf

In addition, article 12 (1) CEDAW commits State parties to taking appropriate measures to eliminate discrimination against women in health care and ensure access to health care services by women and men, including those relating to family planning. In its General Recommendation 24 on Women and Health[9], the CEDAW Committee clearly states that "it is discriminatory for a State party to refuse to legally provide for the performance of certain reproductive health services for women" (para.11). The CEDAW Committee also noted that, since "gender-based violence is a critical health issue for women", State parties should ensure the "the formulation of policies, including health care protocols and hospital procedures to address violence against women and abuse of girl children and the provision of appropriate health services" as well as providing "gender-sensitive training to enable health care workers to detect and manage the health consequences of gender-based violence." (para. 15).

We would also like to refer your Excellency's Government to the Human Rights Council report of the Special Rapporteur on the right to health (A/HRC/23/41), which considers issues concerning the right to health of migrant workers. In his report, the Special Rapporteur notes that ensuring the availability, accessibility, acceptability and quality of health facilities, goods and services on a non-discriminatory basis, especially for vulnerable populations like migrant workers, is a core obligation under the right to health (para. 38). He observes that non-discrimination requires that socio-economic rights, such as access to health facilities, goods and services, be equally available to nationals and non-nationals, including irregular migrant workers (para.10). Furthermore, in his report, the Special Rapporteur recalls the comments made by the CEDAW Committee in General Recommendation 26 on Women Migrant Workers[10] that women migrant workers often face greater health vulnerabilities due to gender inequalities. The Special Rapporteur concludes in his report that laws linking immigration control and health systems are a direct barrier to accessing health care, and perpetuate discrimination and stigma rather than promote social inclusion (para. 5)

In this connection, we would like to recall the 2009 Concluding Observations on Spain of the CEDAW Committee (CEDAW/C/ESP/CO/6), where the Committee expressed its concern "about the situation of vulnerable groups of women, including women of ethnic and minority communities, migrant women who may be more vulnerable to poverty and violence and are at risk of multiple forms of discrimination with respect to education, *health*, employment and social and political participation." (para.31). The Committee called upon Spain "to take effective measures to eliminate discrimination against women of ethnic and minority communities and … *migrant wome*n, both in society at large and within their communities." (para. 32). It also called upon Spain to "be proactive in its measures, including through the development of targeted programmes and strategies, to increase women's awareness of and access to education, *health* and social services, training and employment, as well as to familiarize them with their rights to gender equality and non-discrimination."

[9] Contained in Document A/54/38/Rev.1, chap. I.
[10] CEDAW/C/2009/WP.1/R,

In its General Comment, the CESCR further underlines the critical nature of accessibility with regard to the right to health. Accessibility implies non-discrimination and economic accessibility. Thus, health facilities, goods and services must be accessible and affordable for all in law and in fact, including for vulnerable, marginalized or socially disadvantaged groups (para. 12(b)). Any discrimination in access to health care or the underlying determinants of health is prohibited, including on the grounds of national or social origin (para. 18). In this regard, the Committee has expressed its concern in the Concluding Observations on Spain[11] (2012) on the amendments introduced by Royal Decree-Law N°. 16/2012 of 20 April 2012, and recommends that the reforms adopted do not limit the access of persons residing in Spain to health services, regardless of their legal situation and that the government assess the impact of any proposed cuts on the access of the most disadvantaged and marginalized individuals and groups to health services (para. 19).

We would also like to remind your Excellency's Government of article 11(1) of the ICESCR, which holds that "the States Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions." The CRC also enshrines the right to an adequate standard of living for all children (article 27), and the right to the highest attainable standard of health and to facilities for the treatment of illness and rehabilitation of health (article 24). General Comment No. 15 of the Committee on the Rights of the Child confirms that ensuring universal coverage of quality primary health services, including prevention, health promotion, care and treatment services, and essential drugs, is a core obligation for the State under children's right to health (para. 73). Furthermore, in its General Recommendation 26 on Women and Migrant Workers, the CEDAW Committee states that "all women migrant workers are entitled to the protection of their human rights, which include … the right to be free from poverty and the right to an adequate standard of living".[12]

The right of everyone to social security is enshrined in article 22 of the UDHR, article 26 of the CRC and article 9 of the ICESCR, which states that "The States Parties to the present Covenant recognize the right of everyone to social security, including social insurance". According to the Committee on Economic, Social and Cultural Rights, in its General Comment 19, health care represents one of the principal branches of the right to social security (para. 12). The Committee also specified that non-nationals should be able to access non-contributory schemes for affordable access to health care and that all persons, irrespective of their nationality, residency or immigration status, are entitled to primary and emergency medical care (para. 37).

Article 2 of the ICESCR requires States to devote the maximum available resources to the progressive realization of the rights in the Covenant. In its General Comment No. 3, the Committee on Economic, Social and Cultural Rights stated that this is so even during times of severe resource constraints, whether caused by a process of

[11] E/C.12/ESP/CO/5
[12] CEDAW/C/2009/WP.1/R, para. 6.

adjustment, economic recession, or by other factors (as emphasised in the Special Rapporteur on extreme poverty and human rights' report on a human rights based approach to recovery from the global economic and financial crisis (A/HRC/17/34)). Even during times of crisis and recovery, States must demonstrate that every effort has been made to use all resources that are at its disposal, in an effort to satisfy, as matter of priority, minimum essential levels of rights and to protect the most disadvantaged and marginalized members or groups of society by adopting relatively low-cost targeted programmes (See the CESCR's statement on allocation of resources E/C.12/2007/1, paras. 4 and 6; and General Comments No. 3 para. 12, No. 12 para. 28 and No. 14 para. 18).

There is a strong presumption that retrogressive measures that affect the level of enjoyment of economic, social and cultural rights are in violation of human rights standards (see for example General Comment No. 3 of the Committee on Economic, Social and Cultural Rights, para. 9 and 10 and General Comment 4, para. 11). Examples of retrogressive measures might include the adoption of policy or legislation with a direct or collateral negative effect on the enjoyment of rights by individuals, or unjustified reductions in expenditures devoted to implementing public services that are critical for the realization of economic, social and cultural rights (See also A/HRC/17/34 para. 18). In a letter written by the Chairperson of the Committee on Economic, Social and Cultural Rights to all States parties to the Covenant dated 16 May 2012, in relation to the protection of the Covenant rights in the context of the economic and financial crisis (CESCR/48th/SP/MAB/SW), the Committee outlined several requirements for any proposed policy change or fiscal adjustment:

"[F]irst, the policy is a temporary measure covering only the period of the crisis; second, the policy is necessary and proportionate, in the sense that the adoption of any other policy, or a failure to act, would be more detrimental to economic, social and cultural rights; third, the policy is not discriminatory and comprises all possible measures, including tax measures, to support social transfers and mitigate inequalities that can grow in times of crisis and to ensure that the rights of disadvantaged and marginalized individuals and groups are not disproportionately affected; fourth, the policy identifies the minimum core content of rights, or a social protection floor, as developed by the International Labor Organization, and ensures the protection of this core content at all times."

The adoption of any retrogressive measures incompatible with the core obligations under the right to health constitutes a violation of the right to health. Potential violations identified in CESCR General Comment 14 include the formal repeal or suspension of legislation necessary for the continued enjoyment of the right to health or the adoption of legislation or policies which are manifestly incompatible with obligations regarding the right to health (para. 48). The Committee has also stated that "there is a strong presumption that retrogressive measures taken in relation to the right to social security are prohibited under the Covenant" (General Comment 19 para. 42).

If resource constraints render it impossible for a State to comply fully with its Covenant obligations, it has the burden of justifying that every effort has nevertheless been made to use all available resources at its disposal in order to satisfy, as a matter of priority, its obligations. A State party cannot, under any circumstances whatsoever, justify its non-compliance with the core obligations, including the non-discrimination requirement (para. 47).

We would also like to draw the attention of your Excellency's Government to the principles of equality and non-discrimination, which are core elements of the international human rights normative framework and enshrined, inter alia, in article 2 of the UDHR and articles 2 of the ICESCR, the ICCPR and CEDAW. In its General Comment 20 (para. 34 and 35), the CESCR noted that "economic and social status" is a prohibited ground for discrimination, as implied in the phrase "other status" in article 2 of the ICESCR. Thus, measures that discriminate against individuals because they live in a situation of poverty may amount to a contravention of the principle of non-discrimination. The Committee also stressed that discriminatory intent is not a necessary element of discrimination. Therefore, any measure with the purpose or effect of nullifying or impairing the equal enjoyment of human rights constitutes a violation of States' human rights obligations (para. 10 and 12).

Furthermore, the European Committee of Social Rights, which monitors compliance with the obligations assumed by Spain under the European Social Charter, has clarified that "the cost of healthcare must not represent an excessively heavy burden for the individual. Steps must therefore be taken to reduce the financial burden on patients, in particular those from the most disadvantaged sections of the community."[13]

We would also like to draw the attention of your Excellency's Government to the existence of the Guiding Principles on extreme poverty and human rights (contained in document A/HRC/21/39), adopted by the Human Rights Council by consensus at its 21st session (resolution 21/11). Your Excellency's government may find paras. 51-55 of the Guiding Principles (outlining that States should ensure that public policies accord due priority to persons living in extreme poverty), particularly relevant in this case.

With regard to concerns expressed on the alleged negative impact of austerity measures and the changes introduced to the National Health System on victims of trafficking in human beings, in particular in their access to health, we would also like to refer to Article 6, paragraph 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, which provides that each State Party shall consider implementing measures to provide for the physical, psychological and social recovery of victims of trafficking in persons, and in particular, consider the provision of medical, psychological and material assistance. Moreover, the Guideline 6 of the Recommended Principles and Guidelines on Human Rights and Trafficking, launched by the Office of the United Nations High Commissioner for Human Rights in 2002,

[13] See *inter alia* ECSR Conclusions XVII-2, Portugal

provides that State Parties should ensure that trafficked persons are given access to primary health care and counseling.

In this connection, we again wish to draw the attention of your Excellency's Government to CEDAW General Recommendation 24 on Women and Health, where the Committee has recommended that "States parties should ensure, without prejudice and discrimination, the right to sexual health information, education and services for all women and girls, including those who have been trafficked, even if they are not legally resident in the country" (para. 18).

It is our responsibility under the mandates provided to us by the Human Rights Council to seek to clarify all cases brought to our attention. Since we are expected to report on these cases to the Council, we would be grateful for your cooperation and your observations on the following matters:

1. Is the information outlined above accurate?

2. Were the austerity measures, in particular Royal Decree 16/2012, preceded by human rights impact assessments, including assessments of the potential impact on the social determinants of health? If so, please give details.

3. Were individuals and groups most likely to be affected by Royal Decree 16/2012, including migrants and people living in poverty, meaningfully consulted prior to its adoption? If so, please give details.

4. What monitoring mechanisms have been put in place to assess the implementation of Royal Decree 16/2012 and its impact on the rights of people living in poverty, including any disproportionate impacts on marginalized groups including migrants and trafficked persons? What processes, legislative measures or mechanisms for redress are, or will be, included? In particular, how is the government monitoring the effect the Royal Decree may be having on access to healthcare and essential medicines, including through any deterrent effect?

5. Please provide information on efforts undertaken by your Government to implement recommendations from the 2009 Concluding Observations of the CEDAW Committee (CEDAW/C/ESP/CO/6), in particular, taking measures to eliminate discrimination against migrant women, and ensuring that economic and social policies adopted in the context of the crisis take into account the differing consequences for the rights of women?

6. What measures have been put into place to ensure that individuals and families in Spain enjoy their rights to social security, highest attainable standard of physical and mental health and an adequate standard of living in the context of the Royal Decree 16/2012 and related austerity measures?

7. What domestic monitoring mechanisms and safeguards are in place to ensure that your Excellency's government is allocating the maximum of its available

resources to the realisation of social and economic rights, in particular of the most vulnerable persons, and that minimum essential levels of these rights are being upheld?

8. Were alternative measures to austerity carefully considered with reference to rights provided for in the ICESCR in the context of the full use of maximum available resources? If so, please provide details of this examination.

9. Please provide details, and if available results of any investigation or inquiry that may have been carried out in relation to the possible impact of the recent changes - including austerity measures as well as the Royal Decree 1192/2012 - on the situation of victims of trafficking in persons, and indicate what steps have been taken to mitigate the impact of those measures and changes on access to health for victims of trafficking.

We would be most grateful to receive an answer to these queries within 60 days. The response of your Excellency's Government will be made available in a report we submit to the Human Rights Council for its consideration.

While waiting for your response, we urge your Excellency's Government to take all necessary measures to guarantee that the rights and freedoms of the above mentioned persons are respected and, in the event that your investigations support or suggest the above allegations to be correct, the accountability of any party responsible for the alleged violations should be ensured. We also request that your Excellency's Government adopt effective measures to prevent the recurrence of these acts.

Please accept, Excellency, the assurances of our highest consideration.

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