



ALTERNATIVE REPORT TO
THE 5TH AND 6TH
APPLICATION REPORT ON
THE CONVENTION ON THE
RIGHTS OF THE CHILD IN
SPAIN (2010-2016)

CATALONIA

MARCH 2017

SÍNDIC

EL DEFENSOR
DE LES
PERSONES

ALTERNATIVE REPORT TO
THE 5TH AND 6TH
APPLICATION REPORT ON
THE CONVENTION ON
THE RIGHTS OF THE
CHILD IN SPAIN
(2010-2016)
CATALONIA

SÍNDIC

EL DEFENSOR
DE LES
PERSONES

Síndic de Greuges de Catalunya (Catalan Ombudsman)

1st edition: March 2017

Alternative report to the 5th and 6th application report on the Convention on the rights of the child in Spain (2010-2016). Catalonia. March 2017

Layout: Síndic de Greuges

Printed on ecologic paper

Original design: America Sanchez

INDEX

1. INTRODUCTION	5
2. GENERAL APPLICATION MEASURES	7
3. GENERAL PRINCIPLES	11
3.1. GUARANTEES OF CHILDREN'S RIGHT TO BE HEARD AND GIVE THEIR VIEWS ON THE AFFAIRS THAT AFFECT THEM	
3.2. COMPLIANCE WITH THE ADMINISTRATION'S OBLIGATION TO GUARANTEE THAT THEIR ACTIONS RESPECT THE CHILD'S BEST INTEREST	
3.3. APPLICATION OF THE NON-DISCRIMINATION PRINCIPLE	
4. RIGHTS AND CIVIL LIBERTIES	15
4.1. CHILDREN'S POLITICAL PARTICIPATION	
4.2. PROTECTION OF CHILDREN'S RIGHT TO PRIVACY AND HONOR AS REGARDS INFORMATION ON .. THEIR PRIVATE LIVES AND USE OF THEIR IMAGE	
4.3. RIGHTS OF THE CHILD AND NEW TECHNOLOGIES	
5. VIOLENCE AGAINST CHILDREN	21
5.1. PREVENTION OF CORPORAL PUNISHMENT	
5.2. DETENTION AND INTERVENTION IN CASES OF CHILD AND SEXUAL ABUSE CASES	
5.3. THE FIGHT AGAINST BULLYING IN SCHOOLS	
6. FAMILY ENVIRONMENT AND ALTERNATIVE CARE MODALITIES	27
6.1. POLICIES TO SUPPORT FAMILIES IN THE RAISING, EDUCATION AND SOCIAL CARE OF CHILDREN	
6.2. ALTERNATIVE FAMILY RESOURCES ASSIGNED TO CHILDREN IN SITUATIONS OF VULNERABILITY	
7. DISABILITY, BASIC HEALTH AND WELL-BEING	37
7.1. MENTAL HEALTH CARE FOR CHILDREN AND ADOLESCENTS	
7.2. PARTICIPATION OF CHILDREN WITH DISABILITIES IN EDUCATION AND RECREATION IN EQUAL OPPORTUNITIES	
7.3. THE FIGHT AGAINST CHILD POVERTY	
8. EDUCATION, RECREATION AND CULTURAL ACTIVITIES	45
8.1. SCHOOL SEGREGATION	
8.2. PARTICIPATION IN NON-COMPULSORY EDUCATION	
8.3. SHORTCOMINGS IN GRATUITOUSNESS OF COMPULSORY EDUCATION	
8.4. INEQUALITIES IN ACCESS TO RECREATION	

9. SPECIAL PROTECTION MEASURES 57

9.1. CARE FOR UNACCOMPANIED MIGRANT CHILDREN

9.2. CARE FOR CHILD REFUGEES

10. FINAL CONSIDERATIONS 63

1. INTRODUCTION

The Síndic de Greuges de Catalunya (Catalan Ombudsman), in the defense of children's and adolescents' rights, is charged with the mission of promoting their interests and rights, and to ensure the full compliance with the conditions of their comprehensive development, with a view to guarantee the United Nations Convention on the Rights of Children (UNCRC) and all other legislation on children and adolescent affairs.

Law 14/2010, on the rights and opportunities of children and adolescents (LDOIA) calls on the Government of Catalonia to draw up, every two years and with transversal criteria, an assessment and analytical report from the standpoint of children and adolescents, of the overall body of legislation approved by the government of Catalonia and its various ministries, as well as the degree of compliance with the UNCRC. This report has not yet been written.

For the first time, the Catalan Ombudsman is presenting an alternative report on the application of the Convention on the Rights of the Child, complementing the information presented by the Spanish State in the 5th and 6th Application Reports. As the parliamentary ombudsman of Catalonia, its mission in this field is focused on the situation of the children and adolescents who live in Catalonia.

To prepare this report, the Catalan Ombudsman has referred to the reports on the rights of children presented to the Parliament of Catalonia during the 2010-2016 period.

The report follows the structure stipulated by the committee, and features an analysis of the policies carried out with relation to children and adolescents living in Catalonia by the various administrations involved. In each of the sections, the measures taken are analyzed, underscoring the advancements and the unmet shortcomings and challenges, as well as the most important recommendations.

2. GENERAL APPLICATION MEASURES

Advancements

One of the most substantial changes that has taken place in the 2010-2016 period was the ratification in 2010 of the LDOIA, legislation of reference in Catalonia on the rights and opportunities of children. This law was passed with the aim of updating and modifying the legislation in force up to then on children and adolescents, to bring it into line with new demands and social circumstances. It was meant to be a law that would cover all Catalan legislation on child and adolescent affairs, a law that would view children and adolescents as subjects with rights and opportunities, and establish an action framework to improve programs for the promotion, prevention, care, protection and participation of children and adolescents.

Additionally, in 2013, the Pact for Children was signed, configured as a social agreement of consensus, ratified by the main institutional, social and economic actors, with the goal of promoting comprehensive policies that took into account children and adolescent perspectives, and prioritized specific policies aimed at this group. The Pact for Children is designed to provide tools to protect and care for children in situations of risk or vulnerability, and to include measures for prevention, drive participation and promote children's and adolescents' rights, obligations and opportunities.

The Pact is implemented through the 2015-2019 Comprehensive Children and Adolescent Care Plan. This Plan is being developed through two distinct lines of activity: a four-year strategic plan, with national scope, and annually, an operative plan for children and adolescent policies of the Generalitat (Autonomous Government of Catalonia).

In 2012, during the 10th Legislature, the Children's Commission was established in the Catalan Parliament. It was created again in the next legislature, in 2016. These commissions have no legislative character.

As advancements in the general measures of application, especially important was the 2014 ratification of Law 11/2014, of October

10, to guarantee the rights of lesbians, gays, bisexuals, transgender and intersexual individuals, and to eradicate homophobia, biphobia and transphobia (LGTBI), that incorporates the specific duty of public authorities to work to protect sexual and emotional diversity, gender identity, and the different models of family are respected in the various educational realms, and calls for the adoption of awareness-raising measures and prevention of violence towards individuals because of their sexual orientation.

Last, Organic Law 8/2015, at a state level modifying the child and adolescent protection system (LOMPSIA), with a statewide scope, introducing significant innovations with relation to the best interest of the child, such as criteria taken from General Comment No. 14, more specifically developing the right to be heard, and criteria for internment in centers for children and adolescents with behavioral problems.

Unmet shortcomings and challenges

Despite these advancements related with legislation and planning of policy in children and adolescent affairs, there is still lacking a decided effort to promote transversal policies that guarantee the rights, opportunities and responsibilities of children in all areas, with the commitment of all administrations. There are still administrations and sectoral units of the autonomous ministries (education, health, etc.) that have not taken a sufficiently active role in the defense of children as subjects of rights; a defense that must go beyond guaranteeing the provision of the right they are directly competent for, or in the integrated efforts among the various administrations that must make it possible. Therefore, the Pact for Children, the objective of which is to promote comprehensive policies that take into account the viewpoint of children and adolescents, and prioritize those specific policies aimed at this group has not been sufficiently implemented.

Furthermore, there is also a lack of in-depth implementation of the LDOIA, a law that contains a number of references to a future legislative implementation, of which essentially those of a planning and coordination nature, in addition to provisions

for investments to make its plans effective, have been accomplished.

This legislative implementation should specify in greater detail those rights that the Convention establishes for all children, and also specifically the regulations on intervention processes in different areas, implementing the Committee's general comments. Along these lines, there are still shortcomings in the establishment of minimum criteria of quality and respect for the rights of children, families and foster caregivers (for example, development of the general principles of, or rights to a suitable standard of living or leisure), in addition to the regulation of a number of resources of the protection system, its characteristics and operational conditions (for example, regulating the conditions of children cared for in residential centers).

Gaps are also detected in the evaluation and analysis and impact of the regulatory decisions and public policies on children's rights.

Beyond regulation, mention must be made of the low levels of social spending for children's affairs in Catalonia, and how these low expenditures condition the development of policies to guarantee children's rights.

In fact, Catalonia is among the countries with the lowest levels of spending on social protection, along the lines of countries with less-developed social welfare systems: while the social protection spending as a proportion of GDP was 21.3% in Catalonia in 2014, for the whole of the European Union this expenditure was 28.7% of the GDP. The low social expenditure is also apparent in the analysis of social spending for child and family affairs. According to 2014 figures, in Catalonia, public authorities only devote 0.8% of the GDP to social protection policies for children and families, which is significantly lower than the level for the European Union, which is 2.4%.

From an evolutionary standpoint, it is worth nothing that, after years of increasing public spending on family policies in absolute (in millions of euros or in euros per capita) and relative terms (by percentage of GDP or spending on social protection), there began in 2010 a downward trend in the levels of investment in this area, and it continued until 2014: the most recent statistics available show that in 2014 public administrations overall invested 23.1% less in family care policies than they did in 2009 (see Table 1). This decrease in resources has coincided with an increased social vulnerability of many children and their families due to the financial crisis.

Table 1. Evolution of social protection spending as a proportion of GDP, and by type, in Catalonia, Spain and the EU-28 (2003-2014)

Social protection	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
EU-28	-	-	-	-	-	25.9	28.7	28.6	28.3	28.7	28.9	28.7
Spain	19.8	19.9	20.1	20	20.3	21.4	24.4	24.6	25.3	25.5	25.8	25.4
Catalonia	16.9	17.4	17.5	17.3	17.5	17.1	22.1	21.1	21.1	21.2	21.2	21.3
Children and families	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
EU-28	-	-	-	-	-	2.1	2.4	2.4	2.3	2.3	2.3	2.4
Spain	1.1	1.1	1.2	1.2	1.2	1.3	1.5	1.5	1.4	1.3	1.4	1.3
Catalonia	0.8	0.8	0.8	0.8	0.9	0.9	1.1	1.1	0.9	0.9	0.9	0.8
Family / Sons & Daughters (in M€)	1,140.4	1,224.0	1,377.6	1,520.6	1,775.5	2,100.7	2,172	2,168.6	1,885.7	1,704.8	1,729.5	1,670.1
Family / Sons & Daughters (% of total)	4.5	4.38	4.55	4.66	5.09	5.41	5.02	4.98	4.01	4.01	4.09	3.94
Family / Sons & Daughters (in € per capita)	174	182	201	217	245	285	292	290	251	227	232	226

Source: Idescat and Eurostat.

Note: Break in series in 2010

Last, as concerns the guarantee of an educational activity that would strengthen and disseminate children's rights, more intense development is required for specific actions in the educational realm, with the inclusion of contents in the curricula and school materials, as well as specific training of teachers, among other actions.

Recommendations

- Implement the LDOIA, especially as concerns detailed regulation of children's rights in the protection system (this also includes children in family care).
- Prepare a map of resources and services to prevent situations of social risk and child and adolescent vulnerability.
- Increase investment in policies aimed at children and evaluate the impact of all regulatory measures and public policies affecting children and adolescents.
- Promote the commitment of all administrations to the promotion of compliance with the UNCRC, as well as a transversal approach to formulating and implementing child policies and guaranteeing these rights.
- Endow the Children's Affairs Committee of the Parliament of Catalonia with a legislative character, for it to work to ensure the implementation of the Children and Adolescents' Rights and Opportunities Act and, at the same time, guarantee that children's standpoints and minors' best interests are present in all legislative activity.
- That the Catalan Government write a report on the degree of compliance with the UNCRC as well as a regular evaluation of the regulatory decisions and public policies.
- Include knowledge of the UNCRC in teacher training and school curricula.

3. GENERAL PRINCIPLES

3.1. GUARANTEES OF CHILDREN'S RIGHT TO BE HEARD AND GIVE THEIR VIEWS ON THE AFFAIRS THAT AFFECT THEM

Advancements

The LDOIA recognizes children's right to be heard according to their evolutionary capacities and the competencies they have achieved, and in any event, as of the age of twelve. The Civil Code of Catalonia, also approved in 2010 by Law 25/2010 of July 29, of the Second Volume of the Civil Code of Catalonia, on individuals and families, establishes that "minors, according to their age and natural capacity, and in any event, if they have reached the age of twelve, are entitled to be informed and heard before taking any decision that directly affects their personal sphere or assets".

Organic Law 8/2015, on the modification of the child and adolescent protection system (LOMPSIA) of a statewide scope, develops more specifically and with more guarantees, the right to be heard, establishing that the information that such minors are offered must be presented in an understandable language in accessible, adapted formats.

The Charter of the Rights and Obligations of Children who live in residential centers (2010) specifies, among other guarantees, the right of children and adolescents to file complaints and claims, suggestions and requests, and the mechanisms to do so.

In 2016, a bolstering of the "Infància Respon" (Answering Children) 116111 was announced. This hotline provides free, permanent telephone advice for the prevention and detection of child and adolescent abuse. It also offers a space for listening in complex family situations and provides professionals with information.

Unmet shortcomings and challenges

What is more, there are a number of areas in which there are problems in achievement and full respect for the rights of all children and adolescents to be heard in the matters

that affect them in their daily lives, both as concerns the knowledge by children and adolescents of these rights, as well as their exercise and effective guarantee. In truth, while formally (though not thoroughly) the rules recognize the obligation to hear children out, in general, the services that tend to them have still not assimilated the change of paradigm implied by the UNCRC.

In the school realm, the shortcomings that occur due to a lack of listening in decisions affect children especially intensely, such as the right to be enrolled in schools in an inclusive manner, or in cases of student-student or teacher-student school conflicts, or when punishment is levied. This is also true as regards listening to youths and their opinions on the planning of leisure and educational activities.

Deficits have also been found when it comes to listening to children during court proceedings for family conflicts, especially in difficult separations and divorces. These shortcomings affect the right to be heard in a child-friendly environment.

Listening to children includes recognition of and respect for non-verbal communication that, in the case of abuse situations, can be expressions of discomfort or emotional stress, including physical or psychological signs that could be manifested. In some cases, a lack of effective listening has made it impossible to detect situations of mistreatment and sexual abuse, or severe negligence affecting babies, which could have been prevented if active listening had been practiced.

Despite the aforementioned advancements, for children living in environments outside the family realm, the mechanisms that allow them to express their opinion, and that it be taken into account, are not fully guaranteed. This means that, when protection measures are enacted, it is not always guaranteed that the child be sufficiently aware of them, or that their opinion is taken into account. Further, the supervision or inspection actions of the foster centers do not always include listening to the children residing there. In the same way, the knowledge, access and sufficient privacy conditions for communication and complaint proceedings with the responsible organization,

ombudsman or prosecutor's office are not guaranteed either.

Recommendations

- Provide information to children and adolescents regarding the right to be listened to, and for them to exercise and guarantee effective listening in all decisions affecting them.
- Promote training for all professionals related with the right of children and adolescents to be listened to, and how to make it suitably effective (health, school, leisure, child protection system, police, etc.).
- Establish secure and confidential complaint procedures in all family alternative resources that tend to children, and incorporate direct listening to children in all supervision and inspection interventions of the services and organizations providing care for children and adolescents.

3.2. COMPLIANCE WITH THE ADMINISTRATION'S OBLIGATION TO GUARANTEE THAT THEIR ACTIONS RESPECT THE CHILD'S BEST INTEREST

Advancements

The LDOIA establishes the best interest of the child as the guiding principle of public and private actions. Public regulations and policies must also be evaluated from children's standpoints, and participated in by them.

At the state level, the LOMPSIA, approved in 2015 makes for an advancement in the recognition of this principle by incorporating the criteria of General Comment 14, giving the concept the triple content that the Committee has defined, as a right, as a general principle and as a procedural rule.

Unmet shortcomings and challenges

This legal recognition of the best interest of the child is not always applied at the practical level of public administration actions, especially in the case of children

who do not live with their parents, who are under the guardianship of the Administration, migrant children and those in a situation of economic and social vulnerability.

For example, in the protection system, the existing structural shortcomings, basically caused by the insufficiency of resources (lack of sufficient places in intensive education or therapeutic care centers, lack of foster families, oversized care centers, etc.), mean that on occasion, criteria of available resource or organizational considerations are given higher priority than the needs of the child under guardianship, that the applied protection measure is not always the best-suited, and that children are made to wait to access the resource best-suited to their needs. These shortcomings keep children in the protection system from accessing foster care in a family setting, which would benefit their emotional and social development, and avoiding unnecessarily long stays in centers (especially at young ages), leading to institutional mistreatment and the loss of family integration opportunities.

Other deficits in the application of the principle are the consequences for social and educational opportunities of children that in some cases the regulations or administrative practice derive from the behavior of parents. Examples of these situations are the impossibility for families in arrears for municipal or other taxes, or fines, to have access to financial aid or grants for access to educational or leisure activities for their children (municipal nursery schools, municipal children's clubs, etc.) or directly, to even use these services; the loss of support from social services in the case of certain families (and therefore, the children involved) due to the parents' non-fulfillment of the agreed work plan; penalization by teachers or school administrators of students with parents who have not paid the fees for school material in the participation in certain regular school activities (performance and delivery of classwork, delivery of grade cards, and so on). Such actions attach higher priority to parents' compliance with the order than to the child's best interest (at times, despite the fact this non-compliance could be caused by certain situations of social disadvantage).

Last, it is especially relevant that in the procedures to assign resources or services not universally guaranteed, and whose aim is to guarantee the material living conditions, the child's best interest be taken in account. This is because, among other reasons, these material living conditions determine their opportunities for development and the guarantees of access to other rights. Although there have been advancements, such as the specification of the child's condition when determining a situation of social emergency in relation with social housing policies, there are still shortcomings. For example, the legal code that regulates waiting list and health care time frames, both for diagnostic testing as well as for surgical interventions, do not include being a child as a priority criterion.

Recommendations

- Effectively include the obligation to respect and apply children's right for their best interest to be taken into account in all rules and interventions.
- Not condition access to financial aid or service to parents' compliance with certain obligations (fiscal, etc.) or any other acquired commitments, nor design measures to keep any socially underprivileged child from this access due to non-compliance.

3.3. APPLICATION OF THE NON-DISCRIMINATION PRINCIPLE

Advancements

The LDOIA incorporates the principle of non-discrimination called for in the UNCRC, as well as public authorities' obligation to guarantee this principle and actively identify the children or adolescents who, individually or as a group, require the adoption of special protective measures to reduce or eliminate discrimination factors.

Advancements have taken place, for example, in the fight against discrimination due to sexual orientation, gender identity or gender expression, both for children and adolescents as well as the overall population,

through Law 11/2014, of October 10, 2014, to guarantee rights of the LGTBI community. In the educational and leisure realm, the law establishes provisions for the training and sensitization of professionals necessary for them to manage this type of discrimination, in addition to the need to take into account emotional and sexual diversity in the contents of school and leisure activities, and prevention and action measures against harassment that LGBTI individuals may face in the school environment.

Unmet shortcomings and challenges

Despite the greater social sensitivity toward the application of the non-discrimination principle, the children with greater social vulnerability still suffer the effects of certain administrative practices of a clearly discriminatory nature.

One of the groups most affected are children of immigrant origin, especially when administrations establish criteria of priority for services that directly or indirectly penalize them on account of being a newly-arrived citizen. Some examples of this are: the criteria of priority for admission of students into schools for students with family members who have attended the same school they are applying to, which leaves students whose parents do not have a school record in Catalonia out of this priority, or the incorporation of a requirement for years of registration in the municipal census for access to municipal grant offerings or access to certain public services (nursery schools, etc.) or social benefits (social emergency housing, etc.).

Children living in poverty or low-income families are also victims of discriminatory practice when they live deprived of access to certain educational or leisure services, such as nursery schools, day camps, etc. due to the cost they must pay to access them, and the fact that they do not have measures of economic accessibility in place to ensure that economic criteria not be a factor of exclusion. The financial crisis has led to many children suffering this type of discrimination, but also to many services

implementing aid, bonus or income-based subsidized tariff systems.

Last, children with disabilities are also a group especially affected by these practices, not only because the services are not always adapted to their needs or have enough human resources with the necessary training, but also because often their families have to cover the costs of providing these support professionals. For example, in school settings, this situation occurs in access to school lunchrooms, when families of students with disabilities must pay a higher cost than their classmates to meet the expense of support personnel (when the expense for support personnel should be general expenses for operation of the service and therefore, charged to all service users).

Recommendations

- Eliminate priority criteria of a discriminatory nature in access to the educational system or grants.
- Implement economic accessibility measures for services aimed at children that require co-payment by families.
- Include affirmative action measures for socially underprivileged children with special attention to children of immigrant origin, children in situations of poverty and children with disability in the access to services that provide opportunities (education, leisure, etc.) and where they are under-represented.

4. RIGHTS AND CIVIL LIBERTIES

4.1. CHILDREN'S POLITICAL PARTICIPATION

Advancements

The LDOIA establishes public authorities' duty to promote children's and adolescents' rights to fully participate in the most immediate centers of co-existence and social, cultural, artistic and recreational life of their environment and offering the opportunities necessary for them to progressively join active citizenship, according to their degree of personal development. With this goal in mind, it created the figures of the National Council and territorial councils of child and adolescent participation. They are collegiate bodies of a consultative and participative nature, made up of children and adolescents from every territory of influence, with the objective of channeling their participation in public affairs and the definition of public policies that affect them (Decree 200/2013, of July 23, on the territorial and national child and adolescent participation councils of Catalonia). Territorial councils must be created by local organizations and form the basis for operation of the National Council, on which they are represented. The National Council (CNIAC) began to operate in 2014.

The creation of the National Council and territorial councils for local participation is a significant step to take children into account for decisions on matters that affect them and in the exercise of active citizenship, and to make visible problems relative to children and adolescents, and that follow along the lines established by General Comment no. 12 of the Committee, that establishes the duty to guarantee this participation for children in, among other realms, the planning and formulation of policies at all levels and in all areas.

On another note, the active participation of children is one of the main themes of the 2014-2017 Comprehensive Children and Adolescent Care Plan.

Last, law 12/2009, on education (LEC) seeks to promote participation of children and

adolescents in the taking of decisions in their educational environment through school councils.

Unmet shortcomings and challenges

Despite the advancements, there are local governments in the territory, covering a significant amount of population, that have not established territorial councils, and therefore, are not represented on the National Council. On another note, the operational model of the various territorial councils is not homogeneous, and in many cases they do not really take the role of a consultative, participation body with a voice in the framework of decision-making and public policy planning processes.

Clearly, the creation of the CNIAC and the relevant territorial councils at the local level is a significant step to make visible problems related to children and adolescents, and also consider children as full members of society. Furthermore, it is still necessary for the CNIAC to be consolidated as a true instrument of social participation for children in the design of public policies, for example, in child impact evaluations that the Autonomous Government of Catalonia should carry out regarding planned regulatory provisions and draft bills that affect them, as well as their participation in the making of legislative decisions. This situation is not even close to being fulfilled at this time.

In the same way, work must be done for children's participation to be a reality in all areas of their lives (family, school, leisure and out-of-school activities, recreation, neighborhoods, towns, cities, communication media, etc.) given that, if this does not take place, it will be difficult to achieve full, effective participation. Participation must form part of children's daily lives.

At a sectoral level, despite the intention of the LEC to promote children's and adolescents' participation in decision-making in their educational environments through school councils, this possible participation space, where it has been established, may lose decision-making competencies due to the regulation of State Organic Law 8/2013, of December 9, to

improve educational quality (LOMCE), at the Spanish state level, which transfers decision-making to the administrative bodies of the school (for public schools) and the owner institutions (in the case of private schools). With this, school councils will cease to be true governing bodies of the school, and administrations will be strengthened as decision-making centers.

Recommendations

- Guarantee that the CNIAC be consolidated as a true instrument of social participation for children in the design of public policies, such as for example, in child impact evaluations that should be carried out regarding planned regulatory provisions and draft bills that affect them, as well as their participation in the making of legislative decisions.
- Promote the formation of territorial participation councils in the local governments where they have not been created yet and evaluate, if necessary, how to improve the operation of the existing councils to guarantee they work as true consultative bodies in decision-making.
- Develop programs to promote children's participation in all areas of their lives (school, leisure activities, communication media, etc.).

4.2. PROTECTION OF CHILDREN'S RIGHT TO PRIVACY AND HONOR AS REGARDS INFORMATION ON THEIR PRIVATE LIVES AND USE OF THEIR IMAGE

Advancements

As regards the operation of public administrations in recent years, one of the main changes has to do with improvements in the information management system, based on technological resources and the rise in citizens' demands for transparency and access to information. In such a context, Catalan Law 19/2014, of December 29, on transparency, access to public information and good governance, establishes the possibility for citizens to have mechanisms for the protection of

their interests, and specifically the information related with children, or that may have effects on their rights.

Prior to this, Law 32/2010 was approved in Catalonia, establishing the Catalan Data Protection Authority, as a tool to bring these rights to bear, and work has been done to protect children and adolescents in this realm.

In parallel, the Audiovisual Council of Catalonia has facilitated the creation of a stylebook for news media on how to report on cases of child abuse. It reminds communication professionals of the provisions in place for the protection of children and adolescents pursuant to Law 22/2005, of December 29, on audiovisual communication of Catalonia. The book notifies users that it is not allowed to disseminate the name, image or other details that allow identification of the minors in cases in which, with or without their parents' or guardians' consent, the honor, privacy or image could be affected if they appear or could appear as victims, witnesses or charged with committing illegal acts.

Unmet shortcomings and challenges

The information society generates significant challenges for the safeguarding of the rights to privacy, honor and image of children and adolescents, especially those who are most vulnerable. Still too frequently neither the administration nor the media are capable of sufficiently preserving these rights of child abuse, mistreatment or other abusive or criminal victims, who receive media coverage and have a presence on the Internet that can affect their physical and psychological recovery. It is not sufficiently borne in mind that the dissemination of the child's identity or image does not only damage their right to honor, privacy and own image but that, furthermore, disturbs their proper physical, mental, moral and social development.

On another note, protection of a child or adolescent's privacy is restricted and limited to knowledge of their name and personal details, and no consideration is given to the fact that, in a given context, the dissemination of certain, not strictly personal data, makes it possible to identify the specific child or

adolescent who must be protected for the good of their best interest.

As for the correlation of children's right to protection of their private life, privacy and honor, with the duty of reservation of professionals intervening in the cases that affect children and adolescents, this must go beyond the prohibition of releasing specific information on the affected individuals, and should be extended to any expression of a value-based nature made on the grounds of information derived from professional exercise that could damage these rights. In fact, the best interest of the child or adolescents, along these lines, must also limit the right to literary creation and journalistic activity (when these could enter conflict with children's right to privacy).

Recommendations

■ Rigorously guarantee that the right to information and freedom of expression do not exceed the limits that the legislation in force imposes for the preservation of the right to privacy, the protection of honor and the dignity of children and adolescents, especially if they have been victims of a crime or mistreatment, preventing the impact that such a violation could cause in the development of the child or adolescent,

and always making the child's best interest prevail.

■ Expand the duty of confidentiality and professional secrecy to all of those opinions and assessments that professionals intervening in a case could give, based on the information obtained in the exercise of their profession, especially if it is in the field of child protection or in the exercise of police duties.

4.3. RIGHTS OF THE CHILD AND NEW TECHNOLOGIES

The use of new information and communication technologies (ICT) has extended throughout all members of society, and children and adolescents are no exception. In a 2016 study, 98.7% of minors aged 10 to 15 had used a personal computer in the past three months, and 98.1% had used the Internet. These figures are significantly higher than the state and European averages (see table 2) Although, when speaking of children, the focus tends to be on the risks they entail, ICT's can contribute to guarantee and exercise rights and freedoms such as the right to information, the right to education in equal opportunities, the right to participation, freedom of expression and thought, and the freedom of conscience and religion, among others.

Table 2. Evolution of knowledge society development indicators EU-28, Spain and Catalonia, 2007-2016

Personal computer users in the last three months (10-15 yr-old age group)	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Catalonia	94.6	96.5	96.7	96.7	96.3	98.1	96.6	95.0	94.6	98.7
Spain	92.7	94.1	94.5	94.6	95.6	96.1	95.2	93.8	95.1	94.9
Internet users over the past three months (10-15 yr.-old age group)	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Catalonia	87.1	93.5	93.0	93.7	92.0	95.7	94.7	92.5	95.6	98.1
Spain	76.9	82.2	85.1	87.3	87.1	91.2	91.9	92.0	93.6	95.2
Internet users over the past three months (16-74 yr.-old age group)	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016
Catalonia	56	64	66	72	72	75	75	80	83	...
Spain	51	56	59	64	67	70	72	76	79	81
EU-28	57	61	65	68	71	73	75	78	79	82

Source: Idescat and the INE, from the Survey on Information and Communication Technology Equipment and Use in INE households.

Advancements

From the perspective of access to rights, State Law 26/2015, of July 28, is an advancement as it includes, as a right of children, the right to digital and media literacy in a manner adapted to each evolutionary phase. This right requires that minors be allowed to act in line with security and responsibility and, in particular identify risk situations derived from the use of new technologies, as well as the tools and strategies to handle the risks and protect themselves from them.

The i-digital Plan, approved by the Autonomous Government of Catalonia in 2012 as a strategy for information society affairs, and that incorporates objectives of the Digital Agenda for Europe and the Europe 2020 Strategy outlines the challenges relative to contents and the protection of children.

From the standpoint of preventing the risks associated with the harmful and also criminal use of the Internet, there are initiatives aimed at promoting the responsibility of the administration, companies and families when guaranteeing that the use of internet and new technologies increase the well-being of persons, especially children, promoting it and guaranteeing it, but also regulating and implementing the measures necessary to supervise and monitor those uses that may constitute a violation of rights. This applies to the initiative in place for the past three years by the Catalan Data Protection Authority to invite children and adolescents, schools and families to think about the responsible use of new technologies through the Minors, Internet and Technologies project, or also the numerous training and prevention activities (in addition to the investigation of crimes) launched by the Autonomous Police of Catalonia, the Mossos d'Esquadra, to promote on-line security.

The Audiovisual Council of Catalonia (CAC) has intervened to establish protection measures for minors and other vulnerable groups in the framework of "smart TV" and the regulation of new audiovisual services and on new platforms, especially the Internet, by monitoring websites, social media profiles, etc.

The Autonomous Ministry of Education has also taken actions to work on the safe and responsible use of the Internet, applications, computers and devices in the digital environment through the edu365 portal, in conjunction with the Center for Information Security of Catalonia, promoting their use in educational settings.

Unmet shortcomings and challenges

Although children's access to ICT's is practically universal, especially thanks to the work of schools, the type of use (frequency, motivation, contents, etc.) still varies depending on the social origin, and their parents' cultural and economic capital.

In fact, the more or less intense presence of technology in school activities partially depends on the social composition of the school's student body, especially because the private investment made by the families determines part of this expenditure. The implementation in classrooms of innovation projects that require an investment in technology, but without the necessary funding, generates inequality and school segregation.

The technical difficulties brought about by the use of digital tools and teachers' lack of the training necessary to solve them also makes for a barrier to the proper use of ICT's in classrooms.

On another note, certain irregularities have been detected as concerns the use of students' images and data in the digital environment, that have been put there by schools and recreation organizations, in which there is a presence of children and adolescents, disregarding the security instructions provided by the Autonomous Ministry of Home Affairs, due to lack of knowledge or care in handling the data.

Last, new technologies are bringing about new challenges regarding the transgression of the rules of mutual civic respect, through improper use of social media and cyber-bullying, which are magnified by their presence on-line, multiplying their scope, as well as the manifestation of other addiction or mental health problems.

Beyond the regulation of the sector, or limiting the risks associated with the Internet and ICT's,

the fundamental factor through which to guarantee proper use is education. This also applies to the use of new technologies, as well as the prevention of problems that appear on-line but are often all too real off-line as well. The emphasis is on ICT's as the problem, when these risks are often associated with educational shortcomings, or are related to child-youth mental health, social skills, mutual civic respect, cooperative work, etc. There are deficits in the public administrations when it comes to proactively promoting activities on children's and adolescents' digital competencies that go beyond technical skills.

There are also shortcomings in training, orientation and sensitization activities aimed at parents, for them to develop a positive parental role as regards their children's ICT use.

Recommendations

- Ensure digital and media literacy in equal conditions for all children and adolescents, and promote ICT accessibility to students of all schools.
- Regulate access to Internet and the use of ICT's among children and young people, and control over the security of the Internet, involving the corporate social responsibility of the participating companies, establishing protocols and recommendations in children and adolescent affairs and the relevant supervision mechanisms.
- Develop strategies to prevent addictions, new forms of harassment and crime on the Internet, or other inappropriate uses of ICT's among children and adolescents.

5. VIOLENCE AGAINST CHILDREN

5.1. PREVENTION OF CORPORAL PUNISHMENT

The competency to conserve, modify and develop its own civil code is attributed to Catalonia. In the exercise of this competency, the Parliament of Catalonia approved Law 25/2010, of July 29, the second volume of the Civil Code of Catalonia, on persons and family affairs. Within this law, the content of parental authority is regulated, and it is stipulated that: “Parents may correct the children over whom they have custody in a proportionate, reasonable and moderate way, with full respect for dignity.”

Along these lines, the Committee, in its General Comment no. 8, on the child’s right to protection against corporal or degrading punishment, has stated that it is necessary to avoid any ambiguity in this matter, so that no space be left for any type of “legalized” violence in any of the child’s life areas, in this case, the family realm.

Unmet shortcomings and challenges

Given that the UNCRC stipulates that states are obliged to protect children against any type of physical or mental violence, the duty to ensure that no child is subjected to any cruel, inhuman or degrading punishment, there must be a modification of the regulations on parent-children relations contained in Law 25/2010, of July 29, from the second volume of the Civil Code of Catalonia, on individuals and family affairs (Article 236-17) and eliminate the reference to parents’ “power of correction”, pursuant to the recommendations of the Children’s Rights Committee, with the goal of avoiding any justification of violence and guarantee the effective prohibition of corporal punishment of children.

As the Committee has stated, regulations with similar content, with ambiguous character

that could give rise to interpreting certain practices as permissible or “justified” from a legal standpoint, are contrary to the UNCRC because they undermine the dignity and integrity of children, and would never be accepted were they to be applied to adults.

Recommendations

- Eliminate the reference to the “power of correction” of parents in the regulation of parent-child relations contained in Law 25/2010, of July 29, in the second volume of the Civil Code of Catalonia, on individuals and family affairs (Article 236-17).

5.2. DETECTION AND INTERVENTION IN CHILD MISTREATMENT AND SEXUAL ABUSE CASES

In Catalonia, there is not sufficiently accurate knowledge on the true prevalence of child abuse because the research done in this field is very limited. In the case of sexual abuse, some published studies have situated the prevalence of child¹ sexual abuse at levels similar to the results obtained in international studies performed on this subject matter in countries with developed welfare systems (around 15-20%, with more prevalence among females than males). This prevalence is higher in the case of users of certain services, such as the protection system (around 30%).

However, these data significantly contrast with the levels detected by the various services involved, which confirms an under-detection of the phenomenon, as well as the low impact of the services meant to protect and care for children when in such situations of abuse.

The difficulties in detection, and “invisibility” also generate situations of psychological and emotional abuse that children suffer in cases of difficult separations of their parents. In some cases, despite the judicialization of these situations, the child continues to be exploited by their parents, and becomes a

¹ PEREDA, N. AND FORNS, M. (2007). Prevalencia y características del abuso sexual infantil en estudiantes universitarios españoles. *Child Abuse & Neglect* 31, pàg. 417–426; PEREDA, N., ABAD, J. AND GUILERA, G. (2012). Victimologia del desarrollo. Incidencia y repercusiones de la victimización y la polivictimización en jóvenes catalanes. Centre for Legal Studies and Specialized Training; PEREDA, N., ABAD, J. AND GUILERA, G. (2014). Victimització en joves de protecció a la infància i l’adolescència i de justícia juvenil. Centre for Legal Studies and Specialized Training.

repository of suffering and anxiety because of their parents' conflictiveness. This keeps them from receiving the basic elements for their welfare and comprehensive development.

Violence against women has a severe and deep impact on children who are direct witnesses because they are present at the time of the violence exercised by their father or the partner of their mother against her, or are indirect witnesses because they see or hear the violence against their mothers and the effects it has on her. They become victims of psychological abuse with negative consequences and effects on their health and comprehensive development, also affecting their future emotional relationships. In the same way, adolescents and youth are a group especially vulnerable to situations of violence against women.

As regards the number of children who live in family units with violence against women, the invisibility of phenomenon persists, as there is still difficulty in quantifying the number of children and adolescents who live in families with violence against women, as well as the number of children and adolescents exposed to living abusive or manipulative situations toward their mothers, in a post-separation context.

Advancements

The LDOIA has become a significant legislative advancement in the struggle against child abuse because, aside from featuring a catalog of children's rights in different areas, it devotes a specific chapter to "public protection against child abuse."

Within this chapter, various measures are defined to "effectively" protect children from violence. Among them are the obligation to establish protocols that ensure comprehensive activity by the different services or administrations involved in abuse detection and prevention; allocation of resources to prevent secondary victimization of children in the criminal court proceedings; obligation of the respective administration to promote the training of professionals in the police, health and education realms to be able to detect abuse; establishment of immediate care based on telephone and telematic

resources to respond to notifications of possible abuse; creation of a specialized care unit for child and adolescent sexual abuse victims; and creation of a child abuse research center.

Some of these measures were already established prior to the LDOIA's entry into force, and the importance of their regulation is derived from the fact that their existence has been acknowledged by a legally binding rule. This is the case of the Framework Action Protocol for Sexual and Other Severe Abuse of Minors, from 2006, coordinated by the Catalan Ombudsman and ratified by various administrations, Prosecutor's Office and the High Court of Justice of Catalonia, the Protocol of Clinical Care for Acute Child Abuse, from 2008, the Consolidated Register of Child Abuse (RUMI), created in 2008 or the existence of services to support judicial bodies to reduce the impact of child and adolescent examinations in the criminal court proceedings.

In 2016, the body competent for children's affairs in Catalonia announced a number of measures to reinvigorate the protection of children and adolescents from violence. Interdepartmental commissions have been created to improve coordination, and the protocols have been modified. The creation of a figure of reference in sexual victimization and abuse in centers of the child protection system has been announced. Furthermore, there has been a significantly increased allocation of professionals to child and adolescent care teams through the program contract that is signed with local administrations.

In the same way, to protect children in situations of psychological and emotional suffering in highly conflicting couple situations, the condition of "chronic and open conflict between the parents, whether or not they are separated, when they place their needs before those of the child or adolescent," has been established as a situation of social risk, and there has been created, although for now it is just a pilot plan in a number of specific judicial territories, the figure of a parental coordinator as a support figure for the judge, to lend intensive assistance and family follow-up of judicial measures in the child's best interest.

Unmet shortcomings and challenges

It has been found that over six years since the entry into force of the LDOIA, many of the provisions it contained to fight child abuse have not been implemented or are insufficiently developed.

The framework action protocol for cases of sexual and other severe abuse, and the protocol later bilaterally signed between the administration competent in children's affairs and the Autonomous Ministry of Education, from 2012, was not disseminated by the educational administration that assumed this commitment, and schools were not required to comply with them. In the same way, the administration competent for children's affairs has not worked to ensure compliance with these protocols in the educational area, despite the specific leadership that the LDOIA attributes to them in this subject matter.

Significant training shortcomings have been observed in the educational professions with relation to abuse indicators, the action protocols and professionals' obligation to report, although this is the space in which children and adolescents spend a significant portion of their lives.

In the same manner, it has been observed that when facing sexual abuse cases reported and known from schools, the education administration has not always taken an active position in the defense of children's rights, and has justified the lack of protective action over the school's students, without punishing or reproaching the school for their actions.

In the health care sphere, there are still deficits that affect the training of primary care professionals, who regularly treat children and adolescents, and can carry out a very important task, not just for prevention but also detection of child abuse.

As regards the diagnosis of sexual abuse, in Catalonia there are only two multidisciplinary units specialized in diagnosing child sexual abuse. Despite having recognized prestige, being considered referral centers, and being located in hospitals that are part of the public hospital network, one of the two units does not receive any kind of public financing,

and the other receives only partial funding. Therefore, they operate with private resources.

In the case of social services, the difficulties observed have to do with the allocation of the number of primary care social service professionals (to which the LDOIA attributes the first level of intervention in abuse cases) and specialized services. The high user-to-professional ratio and the overload of work can complicate careful follow-up of the cases and the detection of abuse situations.

The areas of child abuse prevention and the recovery of child and adolescent victims are those that show the greatest shortcomings, despite the provisions of the aforementioned LDOIA. The specialized care center described in this law, for the treatment and recovery of the child and adolescent sexual and other abuse victims, has not been created. Up until 2016, the Catalan administration had only guaranteed specialized treatment for child sexual abuse victims under the guardianship of the administration, through an agreement with a private organization, but not for the rest of the child population.

In 2016, the autonomous ministry competent in children's affairs signed agreements with private entities of different territories so that child victims of sexual abuse who were not under the guardianship of the administration could have access to specialized treatment. But the specialized center outlined in the LDOIA has yet to be created. This center would offer services not only for treatment but also related with the prevention of sexual abuse, detection, professional training and the integration of interventions by the various services to prevent reiterated examinations of child victims.

The child abuse research center, also described by the LDOIA, has not been created, either. In this regard, there are persistent indications of the difficulty in obtaining data related to the incidence and characteristics of the child abuse phenomenon in Catalonia.

Last, as concerns mechanisms for the detection and protection of children in situations of risk, shortcomings have also been found in the specific treatment of babies, with guarantees for the follow-up and more intensive care by social services and primary care services, given their marked vulnerability

because of their age, and given that they are in a stage in which there are no other services that guarantee indirect follow-up.

As regards children who suffer situations of violence against women in their family units, the situation is marked by a still-insufficient dissemination of the circuits of action and sufficient knowledge by professionals from different areas on the effects of violence against women on the physical and mental health of children and adolescents exposed to it.

In the same way, a lack of sufficient psychological care, and care of low intensity, have been found in the offering of Childhood Mental Health Services to children and adolescents suffering these situations, in addition to rotation of professionals during treatment and a lack of specialization in therapies that help children and adolescents not perceive the intervention as threatening, and that favor a questioning of their relationship models.

In the establishment of the parents visits schedule, there is a lack of sensitivity, pedagogy and knowledge of the effects of violence against women on children in spaces as decisive as the judiciary, where in some cases, the application of legislation makes obvious the deficiencies in child protection.

Recommendations

- Offer specific training to all children for the prevention of sexual abuse and improper treatment, with accessible, age-appropriate information, for them to learn to recognize certain actions and how to say “no”.
- Provide training in children’s rights and mistreatment and abuse indicators to all professionals who work with children: from the educational, health care, social service systems, the police, recreation coordinators and others, in addition to those working in the private sector, as well as the duty to report abuse to the police.
- Extend mediation, and establish the parental and prevention and accompaniment measure coordinator in cases of conflicting parental separation.

- A reparation response must be promoted and guaranteed through psychological and therapeutic care for children and adolescents who have been victims of sexual abuse, mistreatment and, directly or indirectly, violence against women to minimize the traumatic effects of their impact.

- To children who suffer violence against women in their families, comprehensive intervention models must be offered through a network of quality services in all areas, that is capable of providing suitable, expedient, personal and coordinated responses to the needs and processes of women who suffer or who have suffered situations of violence, as well as their daughters and sons when they are witnesses or victims.

- As for judicial proceedings, in all situations of children abuse, the Prosecutor’s Office must play a key role while also assessing the suitability or unsuitability of the court’s determination of the visiting schedule, and conduct the follow-up if necessary, in the best interests of the children involved in these situations.

5.3. THE FIGHT AGAINST BULLYING IN SCHOOLS

One of the problems that affects children and adolescents in the school setting, and causes them suffering, is bullying by their peers, and the situations of discrimination and violence that occasionally affect LGBTBI children and adolescents. One form of school bullying that has emerged prominently in recent years is cyberbullying, a form of school harassment through the use of social media or ICT’s.

Advancements

The legal framework in force for education fully recognizes students’ right to respect for their identity, physical integrity, privacy and personal dignity, as well as the right to protection against physical, emotional or moral aggression, and to an environment of mutual civic spirit that fosters respect and solidarity among classmates. With this goal in mind, in recent years, the Autonomous Ministry of Education has developed and updated the Protocol for Prevention, Detection and Intervention in Situations of Bullying

Among Peers with the aim to equip schools with a tool to prevent, detect and intervene in these situations.

In the same way, the Support Unit for Mutual Civic Respect in Schools deserves mention. It was created with the goal of providing service through its hotline and e-mail to any member of the educational community, in particularly complex cases of conflict, or that cannot be resolved through ordinary channels.

In 2016, the free 24-hour hotline was reinforced to guarantee support in managing the demands related with bullying in schools, cyberbullying and other mistreatment or sexual abuse of children and adolescents. Further, the circuit of care, referral and intervention for bullying cases was reinforced.

Protection against LGTBI discrimination is another advancement in preventing and acting before situations of school harassment caused by sexual orientation, gender identity and gender expression.

Unmet shortcomings and challenges

Situations of bullying among peers can be difficult to detect, especially if the professionals from schools lack training on this phenomenon or do not know the criteria to follow and steps to take in a situation of bullying or discrimination. This lack of knowledge on the tools of detection and management means that oftentimes minors who are victims of these situations are not properly cared for by the school, and that the situation of rights violation becomes prolonged over time.

One of the elements that is often described in situations of bullying is that neither the child suffering it, nor those allegedly doing the bullying, are effectively listened to. There have also been situations in which the intervention is delayed to minimize suffering or attribute it to normal relationships among peers. Further, the involvement of and information provided to families is not always the most suitable.

Once the situation has been detected and the intervention is underway, there are situations

distinguished by a certain relaxation of interventions, lack of ongoing follow-up, and efficacy evaluation of the actions carried out. Along these lines, it has occasionally been detected that when a child or adolescent suffers bullying and the school is notified, there is a denial of the incidents by the school, which focuses the situation on modifying the behavior of the victim and not that of the alleged aggressor. It has also been observed that when families report a situation of rejection and contempt toward their child, the situation is not detected in the same way by the school, and therefore the existence of a conflict is not transferred to school administration or any educational service unit.

One of the problems that comes with bullying at school, and that makes intervention difficult, is that it can continue off school premises. This is especially true in the case of cyberbullying, which makes necessary the intervention of and coordination with other services. This does not always occur in a suitable fashion.

Recommendations

- Improve the information provided to and training of school staff on the directives and circuits of coordination and concerted efforts for a comprehensive approach to situations of bullying. Promote the effective implementation of mutual civic respect plans for schools.

- Improve participation and listening to children to create a social climate that stimulates cooperation and mutual support in the school environment. Promote mediation and guidance measures among peers.

- Guarantee effective listening for children who suffer aggression or bullying, provide them with immediate support, and make decisions aimed at ensuring their protection.

- Guarantee concerted action with other social services (social workers, police) as oftentimes school bullying also occurs off school premises, especially in the case of cyberbullying.

6. FAMILY ENVIRONMENT AND ALTERNATIVE CARE MODALITIES

6.1. POLICIES TO SUPPORT FAMILIES IN THE RAISING, EDUCATION AND SOCIAL CARE OF CHILDREN

Advancements

The LDOIA is based on the concept that coverage of the child or adolescent's needs is the responsibility of the family, as the initial socializing agent, and that the role of public authorities, especially through basic social services, is to provide the family with

support so that it can carry out this social function and ensure the protection and development of the children.

When it comes to basic social services, following years of budgetary restrictions, positive mention must be made of the increase as of 2016 in financing for these services, and consequently, the ratio of professionals on the basic social service teams who act as a gateway into the social service system. This is also true of the ratio on teams specialized in care for children and adolescents, as of the signature of the new 2016-2019 Program Contract between the Autonomous Ministry of Labor, Social Affairs and Families and different local and governments (see table 3).

Table 3. Evolution of data on primary care social services (2010-2019)

	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019
Amount granted for Basic Social Service Team professionals (M€)	54.8	54.8	52.8	50.9	51	54.4	56	57.7	58.6	59.1
Number of users	884,771	930,392	957,377	939,588	923,889	875,060 (p)	-	-	-	-
Number of professionals	2,354.5	2,357.8	2,340.4	2,333.4	2,333.4	2,334.1	2,412.4	2,467.9	2,502.4	2,519.4
Social worker ratio	2.88	2.88	2.86	2.88	2.88	2.88	-	-	-	-
Social educator ratio	1.82	1.81	1.78	1.77	1.78	1.78	-	-	-	-

Source: Autonomous Ministry of Labor, Social Affairs and Families.

Specifically, on the positive parenting assistance and support for families with difficulties in the exercise of their parental duties, with children in situations of risk, another initiative has been the development and progressive implementation of the non-residential socio-educational intervention service model for children and adolescents in situations of risk and their families. The open center model in force up to then, with major shortcomings in terms of coverage (with a provision that was not proportionate enough to the existing demand, with territorial inequalities of

provision and socio-educational care that did not cover the entire life cycle, beyond 3-16 years), has incorporated organizational and intervention model modifications that should provide them with more flexibility and capacity to adapt to the needs of each territory.

Positive note must be made of the fact that, in recent years, the investment in open centers has been preserved from budgetary cutbacks, with a sustained increase in the subsidy for these services, the number of places and the number of centers in operation.

Table 4. Open centers in Catalonia (2005-2016)

	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016 (p)
Subsidy for Ministry's open centers	3.2 M €	4.6 M €	5.8 M €	5.8 M €	5.8 M €	6.2 M €	6.5 M €	6.5 M €	6.5 M €	7.3 M €	8.0 M €	9.5 M €
Places in open centers	5,392	5,438	5,714	6,236	6,301	6,698	7,591	7,533	7,876	8,562	8,979	9,301
Number of centers	-	-	-	-	-	196	199	219	221	238	243	264

Source: Autonomous Ministry of Labor, Social Affairs and Families.

Unmet shortcomings and challenges

Catalonia has major shortcomings in investment in family support policies. As previously noted, public authorities devoted less than 1% of the GDP to social protection policies for children and families, according to the latest data available in 2014, an expenditure lower than the average for the rest of the European Union, which is 2%.

These low levels of investment mean that family support policies tend to have problems related with coverage, with shortcomings of universality and restrictions of the thresholds of eligibility established in benefits, and waiting lists for certain programs and services. The implementation of family support policies at the local level is also characterized by high heterogeneity, with territorial inequalities depending on the political prioritization and the budgetary situation of the different local councils. In general terms, family support policies are not very diversified, and territories do not always have enough allocation of resources not only to tend to certain social problems, but also for their prevention. Local councils admit that they lack resources for preventive intervention in family situations in which mothers and fathers face difficulties caring for and parenting their sons and daughters, and that manifest or begin to manifest certain social vulnerability (programs for positive parenting, school tutoring, etc.).

This lack of diversification also has to do with the fact that family support policies are not always built around the child and family's life cycle, to guarantee accompaniment through different stages or moments of change they may find themselves in (which are associated with different problems). Generally speaking, there is an effort to support the family in the first stage of childhood, but there is a drop-off of services as of the first most advanced stages, or other key change periods.

As for adolescents, socio-educational intervention policies are mainly focused on providing youth day camps, youth revitalization events, community programs such as "educators on the street" or other adolescent prevention programs, that are not always suited to meet the needs of psychological and socio-educational

accompaniment of adolescents with high-risk behavior and their families. The difficulties of these adolescents in bonding to these more normalized services block and neutralize the intervention that could be carried out from the available resources. Other normalized (schools or recreation) services also have difficulties in managing the needs of adolescents with disruptive conduct, and often resort to punishment and expulsion as their main educational resource. Shortcomings in the child and youth mental health care services, especially due to high saturation, that lead to interventions that are not intensive, and deficits in coverage for less severe cases, also constitute a difficulty.

In recent years, these shortfalls in the provision of family support policies have been worsened by the increase in families' social needs, and the complexity of the intervention, basically due to the effects of the financial crisis and the higher social vulnerability and the budgetary restrictions applied by the various central, autonomous regional and local governments. The welfare system has not had the capacity necessary to develop sufficient psychological care resources to tend to situations that were not severe yet; children with emotional stress, for example, who cannot be treated by the mental health services (CSMIJ) that are already very saturated, and take care of tending to the most severe pathology cases.

Oftentimes, the cutbacks in available public resources have transferred care pressure to municipal social services, leading to the alteration of the Social Service intervention model in numerous municipalities. It has gone from a model of support and accompaniment of families for the improvement of parenting activities, toward a more health care-based model that concerns itself with covering the most basic needs.

Recommendations

- Guarantee coverage of minimum income for families, without which it is very difficult to fully assume parenting duties, and promote measures of economic accessibility necessary for the family support services and (co) payment to ensure no child is deprived for

economic reasons (family spaces, nursery schools, child day camps, etc.).

- Allocation of human and economic resources to social services sufficient to appropriately meet the needs that exist among families in situations of social vulnerability to preserve the quality of their social intervention.

- Increase the provision and allocation of benefits, programs, therapeutic services meant to guarantee psychological accompaniment of children and families who, due to the crisis or other factors, have seen a deterioration in their living conditions, personal competencies and family and social relations, and that have emotional and family care shortcomings.

- Guarantee financing and provision of services and preventive programs based on positive parenting and support for families in different stages and key moments of the life cycle and in certain specific circumstances (family conflicts, etc.) especially when parents can face more difficulties in the exercise of their parenting duties.

6.2. ALTERNATIVE FAMILY RESOURCES ASSIGNED TO CHILDREN IN SITUATIONS OF VULNERABILITY

The right of children deprived of their family environment to obtain the protection of the state and, if pertinent, an alternative family resource is currently regulated by the LDOIA. This has led to significant changes in the attribution of competencies to the various administrations in the area of child protection, giving a more significant role to local administrations—the primary care social services—as the figures responsible for intervention in risk situations.

Likewise, the new drive meant to be given to the protection system was partially distorted, on one hand, due to the lack of regulatory implementation of this law, and especially, the reduction in public spending that took place in the context of the financial crisis, which halted the development and limited the financing of resources.

Advancements

The LDOIA has led to certain regulatory advancements in the protection of children deprived of their family environment, especially in its configuration from the perspective of the child's right to be protected by the state and obtain, if necessary an alternative family resource. The establishment of preference for foster family care over residential care, the inclusion of permanent foster care and professional foster care (Unitat Convivencial d'Acció Educativa, or UCAE), the regulation of children's rights in foster care centers, the intensive education centers, as well as restraint measures, have all been positive landmarks although they should be more thoroughly regulated, and as of now they are still pending regulatory implementation.

The LOMPSIA, at the state-wide level, establishes detailed, guarantee-based regulations of the admissions, actions and interventions of residential centers for adolescents with behavioral problems, such as intensive and therapeutic education centers, establishing, among other measures, judicial authorization for admission, regulation of restraint measures, solitary confinement, searches, and provision of medications.

Law 26/2015, of July 10, on the modification of the child protection system (LMPSIA) which is also state-level, specifies the preference for family over residential care for children under six, and stipulates that the residential foster care should not be ordered for children under three, except in cases of impossibility, which must be duly accredited. In any event, it is stipulated that residential care for these children not last longer than three months.

Other positive measures include the creation of downsized residential resources with a view to achieving territorial balance, or the creation of specific residential resources (for children with behavior problems). The creation of these resources has been accompanied by the approval in 2017 of a new center Framework Program, a document that must become a model of reference to guarantee the quality of intervention for these kinds of resources.

In a similar manner, new specialized services have been created for the tasks of study, evaluation and follow-up of children and adolescents in severe risk situations, or declared to be in a situation of vulnerability (Children's and Adolescents' Affairs Unit) and their allocation of professionals has been increased. This improvement must facilitate quicker interventions by these units, greater expediency in completing studies and a better situation for children and adolescents who live in alternative family resources.

The administration recently began a number of actions to promote family care, with dissemination throughout society to raise the number of available foster families, which has not yet shown objectifiable results.

In this vein, an especially important implementation beginning in 2012 is the Educant en Responsabilitat (Educating in Responsibility) that aims to intervene and provide an educational response to adolescents under 14 who have committed relevant criminal acts for which they are not criminally responsible because of their age. The creation of this program constitutes a response to the task established by Organic Law 5/2000, which regulates minors' criminal liability, and that stipulated the referral to the administration's protection system for adolescents in conflict with the law of those minors under the minimum age for criminal liability.

Unmet shortcomings and challenges

The child protection system is still facing difficulties in assigning children in situations of vulnerability an alternative family resource that prioritizes the family environment and adjusts to their needs. For example, it has been observed that in general, some of the Directives on alternative care modes approved by the UN General Assembly Resolution of December 18, 2009, are still not sufficiently taken into account, or face numerous difficulties to be applied.

These shortcomings have to do with the type of resources assigned to children and adolescents, which sometimes are not suited to their needs, to the characteristics of these resources and follow-up by the protective administration, and in general, the difficulties that still exist to place the child at the center

of the child protection system. This is also true in making their interest prevail, and the response to their needs above the organization needs of the system and the availability of human and material resources. These are as follows.

- Lack of regulatory implementation of provisions of Law 14/2010, on the rights and opportunities in childhood and adolescence.

Lack of regulations that establish children's rights within the protection system, the rights of children living in centers and those in foster family care. There is also lacking a regulation of residential centers that establish the material conditions, allocation of personal resources, professional profiles and minimum standards that guarantee quality and conditions necessary for the child or adolescent's development and personalized care. In a similar way, there is a lack of detailed regulations on the family measure, that develop professional foster care, and that determine the rights of children in foster care, the role of foster families, the support that must be facilitated by the administration and the follow-up to be conducted of the measure.

- High weight of residential resources over family care.

Despite the preference for foster family care recognized by the LDOIA, in Catalonia foster family care has become a nearly residual measure as compared to care in centers. Residential care continues to be the most broadly used protection measure (see Table 5). As of September 2016, less than half of the children under state guardianship (49.0%) were in family care. In assessment of only the children under state guardianship who are not with their extended family, and for whom the administration has provided a protection resource, little more than a fifth (21.8%) are in family care. Only one out of every five children under state guardianship who are not with their extended family is being cared for by a foster family.

The imbalance between residential care and foster family care is partially related to the lack of foster families. Therefore, although the entirety of care-giving families has increased in the past decade (from 272 family caregivers in 2000 to 591 in 2016), in recent years this positive evolution has stabilized (see graph 1).

This lack of foster care-giving families can be seen, for example, in the fact that there is a high number of children under guardianship, mostly in centers, waiting to be assigned a foster family. In September 2016, 523 children under guardianship were waiting for a foster family. Due to this shortcoming, there are children who cannot have access to the most suitable resource for their protection, according to the proposal prepared by specialized infant and adolescent care units, considering that the insufficiency of the resource can have a conditioning effect on the proposal.

The lack of foster family care is also related with a lack of development regarding

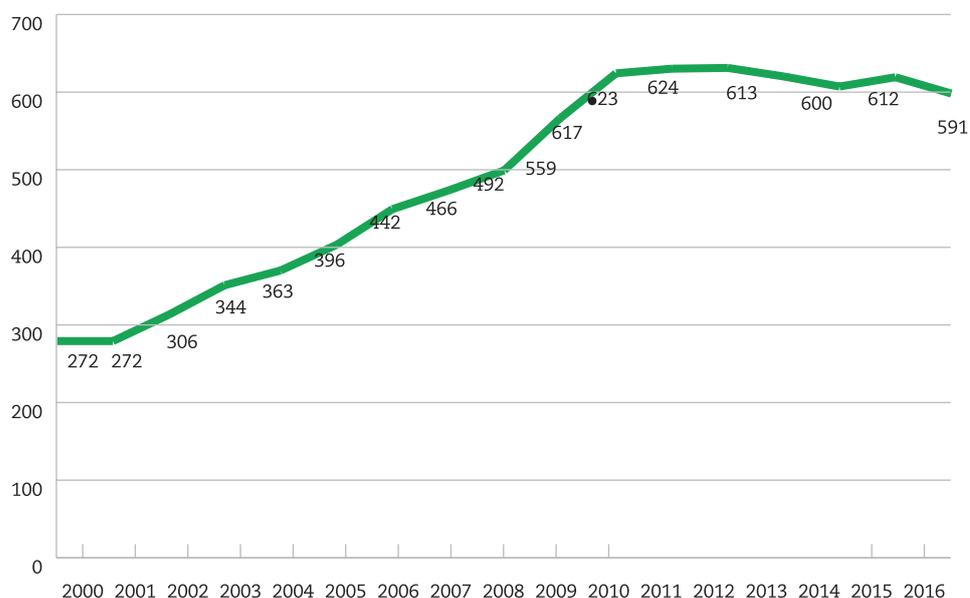
professional foster family care. In Catalonia, voluntary fostering, without receiving economic compensation for the task performed, only an allowance for the child cared for, and without requiring specific training or exclusive dedication, is the model in place in most cases. The existing modality of professional foster family care, theUCAE, though they have been incorporated into the LDOIA, have not been sufficiently developed: in October, 2016, there were only 37 children and adolescents being cared for under theUCAE model in a total of 16 families in Catalonia. This figure, which has remained stable over recent years, stands for 0.5% of the total number of children under guardianship (see Table 5).

Table 5. Evolution of the number of children under family care (2012-2016)

	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	Sept. 2016
Children in foster family care	467	514	538	589	635	669	704	801	885	924	958	966	969	1,004	994
Children in extended family care	2,264	2,392	2,322	2,307	2,355	2,482	2,477	2,627	2,773	2,944	2,464	2,467	2,415	2,446	2,428
Children in family care (%)	46.4	47.5	46.7	44.6	42.6	43.1	42.7	43.7	45.8	53.6	48.6	48.5	48.4	49.6	49
Children in family care (excluding those with their extended families) (%)	12.9	13.8	14.1	14.1	13.6	13.8	14.2	15.4	17.0	21.6	20.9	21	21.2	22.2	21.8
Children under DGCAS guardianship	5,881	6,119	6,128	6,498	7,018	7,313	7,450	7,845	7,985	7,217	7,040	7,076	6,985	6,962	6,988
Number of children cared for inUCAE	-	-	-	-	-	-	-	-	-	-	12	29	31	35	37

Source: Directorate General for Childhood and Adolescence Services - DGCAS.

Graph 1. Evolution of number of care-giving families (2000-2016)



Source: Directorate General for Childhood and Adolescence Services - DGCAS.

The lack of family care resources also affects the youngest children. That is why the situations of children under six years of age, and especially those under three years, who are living in centers is especially alarming.

As of September, 2016, there were 76 children under three years of age living in centers, and 180 under six. These figures show how far the situation is from the goal of not having any baby or child under six living in a center (see Table 6).

Table 6. Evolution of the number of children under guardianship under six years of age in residential care (2013-2016)

	2013	2014	2015	Sept. 2016
Children under guardianship in residential centers	2,706	2,685	2,672	2,693
Children in guardianship under six yrs. in residential centers	286	262	195	180
Children in guardianship under three yrs. in residential centers	117	111	77	76

Source: Directorate General for Childhood and Adolescence Services - DGCAS.

- **The saturation of certain centers**, especially for first care centers (those responsible for the first instance of care and diagnosis of the situation of children who have not had previous follow-up from any specialized service), leads to some of them being occupied beyond capacity. These situations have a clear impact on the right of children cared for to receive individualized care, while generating significant attrition among professionals working in these resources and who treat the children every day.

- **Allocation of an insufficient range of places diversified in terms of type and territorial situation** to conduct the proposed measures made by the child care professionals. This situation means that, although there are openings in some resources, others are occupied beyond their capacity, and certain children and adolescents must wait months before being assigned the type of center that the professionals have considered most appropriate for their needs. These are, for example, children living in care centers for whom there is a proposed admission into a foster care center, and children in ordinary foster care centers who have a proposal for admission into a therapeutic center or centers for adolescents with behavioral problems, or children in this type of resource who have completed an educational process and are awaiting a normalized institutional resource. Such a situation is a violation of their right to an alternative family resource suited to their needs.

- **The high number of places still presented in some centers.** The center downsizing process is pending completion. Thus, although new centers with fewer places have been opened, other large centers from periods prior to the early-80's reform of the protection system remain open. Further, centers of excessive size, that make it difficult to reproduce the family life model as much as possible, continue to be built. Therefore, although an attempt has been made to organize them internally in smaller units, they are still far from the model of a small center similar to a family setting.

- **Significant differences among residential resources, that go beyond their type, and that make evident the differentiated living conditions of children and adolescents depending on the resource assigned to them.** Systematic action by the protection administration is necessary to ensure the compliance with standards of operation quality and comparable care for all children and adolescents who are assigned an alternative family resource. The aforementioned program sets common directives for all residential centers. It could become a suitable instrument with which to resolve this situation, at least partially, as the differences referred to also affect other residential resources such as child care or intensive education centers, that must also ensure standards of quality, regardless of their mandate.

- **Lack of supervision over therapeutic centers authorized by the Autonomous Ministry of Health** (social-health care centers) from a children's rights perspective. These centers are not subject to any regular supervision, nor do any rules to regulate the rights of the children and adolescents of those centers exist, beyond those which apply to the rights of adults as users of the health care system. Some of these resources are assigned by the authority competent in child protection to adolescents with substance abuse or mental health problems as alternative family resources. It has been found that in some of these centers, basic rules applicable to protection centers are not observed, such as the right to have a guardian of reference, the right to individualized emotional treatment, the right to enjoy relations with the family, or that punishments be applied with certain limits and guarantees.

- **Shortcomings in foster family care follow-up.** Aside from the low implementation of this measure as compared to care in institutions that has already been referred to, shortcomings in its follow-up have also been observed. Specifically, follow-up has to go beyond the overall perspective of the entire family, and focus attention on the real condition of the child, their experience of family care and the treatment received, with an analysis of their emotional and psychological condition that goes deeper than what is seen at first glance. There are also shortcomings in the support provided to care-givers, which is sometimes insufficient.

- **Visits to children in care by their families of origin,** especially at the beginning of the measure, are not always studied case by case, on an individualized basis, and therefore do not always prioritize the child's best interest. In this realm, it has been observed that as a general theoretical framework, there is a need for children in foster family care to have an established visiting schedule that is relatively infrequent with their biological family. Professionals working in the system state that it often occurs that the proposal for the child to be cared for in a foster family leads to a reduction or nearly-automatic spacing out of the visits, despite child care being temporary, and theoretically conceived for the child's return to the family of origin.

- **The prolongation in some cases of the urgency and diagnostic care measure (children under three).** This type of care is established as a temporary measure to avoid the child's admission into a center while an analysis of the family situation is conducted and a protective measure proposal is prepared. This measure, which is very positive in that it guarantees that the child remain in a family setting while their situation is studied, is generally meant to last six months. Still, there have been cases in which the studies have been drawn out, leading to a prolongation of this measure well beyond six months.

- **Continuance and stability as essential goals in the allocation of alternative family resources have not, for the most part, been achieved.** The information received in visits to centers clearly shows records of adolescents who have been the object of intervention by the protection system from very young ages, and who have been through numerous changes of resources.

- **Children's right to education in the protection system still faces difficulties to be made effective from a standpoint of equality and equal opportunities.** Certain studies have made it clear that, generally speaking, adolescents under guardianship obtain worse academic results than the rest of the population not under guardianship, especially in the case of adolescents in institutional resources. They have also shown the need for the protection system to focus on this area, and implement measures to resolve the situation of inequality of opportunities that it represents. Such steps as giving the protection resource stability, remaining in the same school, allocating an adult of reference, ensuring that visits with the family not be scheduled within school hours and, in general, prioritizing education from the resources are recommendations made with this goal in mind, and that have not yet been assumed by the protection administration.

The educational system has not assumed a specific commitment toward children and adolescents under the administration's guardianship: coordination between the educational system and the protection administration as the organization holding guardianship of these children has not been assumed as a priority and at this time the

residential resources continue to express concern for the repeated expulsions of some adolescents from schools, and the delays in assigning a place to adolescents who re-enter centers.

- **The effective protection of adolescents in situations of vulnerability who engage in risk behavior** has even more shortcomings due to a lack of sufficiently diversified responses. Adolescents have a high presence in the protective system compared to other ages, partly due to the shortcomings that exist in providing policies aimed at meeting the needs and complexities inherent to this stage, which means that they are often in a very deteriorated state, but also because of the protection system's insufficient resources.

The above-discussed high rate of admissions into certain centers that are over their capacity, as well as long waiting periods for resources proposed by care professionals—which on occasion are not made effective—has a pronounced effect on these adolescents. Also relevant to this topic is the high number escapes by young people from these resources. As a result, they often put themselves in situations of severe vulnerability. This shows that the system faces many difficulties in providing a proper response to their needs, and protecting them effectively. The creation of a new program based on intervention with adolescents from their own environment, recently announced by the protection administration, can become an especially useful instrument to diversify these responses.

- **The transition to adult life by children and adolescents upon reaching adult age is not receiving enough support at this time.** Although for some years now there has been a specific support plan that deserves a positive assessment, the requisites of access that it establishes define a profile that does not adjust to many of the young people who have been cared for by the protection system, who are left out.

In the same vein, in 2006 a financial benefit was set up for young people who had been under guardianship, and the assessment of it was positive. However, only adolescents and youths who had been under guardianship

of the administration for three years or more had access to it. This requisite should be made more flexible, considering the situation of vulnerability in which these young people find themselves, the high risk of exclusion that they have and the delays that often come about in the access of these adolescents to the resources of the protection system.

The charging of the expenses derived from their care against the benefits and Social Security pensions received by children and adolescents under guardianship is clearly in contradiction with the support that the protection administration must give young people formerly under guardianship in the process of transition into adult life. This measure, established in 2010, must be done away with, in order for these youths to achieve adult age, or when they are no longer under guardianship, are able to receive pensions or benefits that they have become entitled to under Social Security.

Recommendations

- Develop implementing rules for Law 14/2010, so that the rights of children in the system, its operation, and the resources of the system are all regulated.

- Promote family care, to provide this resource to the child when it is proposed, and do away with admission in centers of children under six. Guarantee the professionalization of the measure and that care-giving families receive the necessary technical and therapeutic support.

- Diversify and if necessary expand availability of residential resources so that they are adjusted to the profiles of the need profiles children and adolescents cared for by the child protection system.

- Ensure compliance with certain minimum standards of quality that ensure individualized care and the maximum possible development of children and adolescents in all residential resources. Provide support for resources from the administration and supervise their operation, incorporating the activity of listening to youth.

- Establish stable participation of children and adolescents as a group in the system and promote systematic performance of studies that evaluate the impact of the intervention and evaluation of children and adolescents and youth who have been cared for.

7. DISABILITY, BASIC HEALTH AND WELL-BEING

7.1. MENTAL HEALTH CARE FOR CHILDREN AND ADOLESCENTS

Psycho-social well-being is fundamental to understand children's opportunities for development. Mental health problems that these children may suffer represent an obstacle to this development, while the network of specialized services aimed at tending to these mental health problems represents a guarantee for the compliance with children's rights.

In Catalonia, the specialized services are mainly made up by child and youth mental health centers (CSMIJ), who tend to children and adolescents with severe mental disorders derived from primary care, as well as the psychiatric hospitalization services that require intensive and continuous care in a total or partial internment regimen, such as the child and youth mental health hospitals (HDIJ), the Adolescent Crisis Units (UCA) and the Child Psychiatry Reference Units (URPI).

In 2015, 70,521 patients, or 50.7 children for every 1,000, were treated in CSMIJ's in Catalonia (see Table 7).

The provision of the public system must guarantee care to children with mental health problems in conditions of equality. Significant social equalities must be noted in the prevalence of this kind of disorders. For example, the Catalonia Health Survey shows that, while for 5.4% of children ages four to 14 in families from low social classes it is probable they will suffer a mental disorder, this percentage is only 2.5% for children from

a high social class. To this inequality there is added the difficulty in accessing alternative resources outside the public system for coverage of mental health needs by the most economically underprivileged part of the population.

The financial crisis that has affected society in recent years has led to an increase in the pressure and emotional stress of more socially underprivileged families and has conditioned the psychosocial well-being of these families' children and adolescents as well as the possible appearance of mental health disorders.

Advancements

For some years, the CSMIJ has been seeing an increase in the number of patients treated, both in absolute and relative values. Between 2010 and 2015, the number of patients treated has grown by 29.2%, and coverage has risen to 40.4 patients treated per 1,000 children in 2010 to 50.7 in 2015. Therefore, as of today, for every 1,000 children, 10 more are treated today than five years ago, and for every 100 patients, 30 more are treated (see Table 7).

This increase in care could be partially attributable to the increased prevalence of mental health problems, as a consequence, of the financial crisis and other factors, as already stated, but it is also due to the consolidation and provision of resources and services. In short, this increase in the number of patients treated has been accompanied by a rise in the number of consultations, but also a reduction in the number of consultations per patient, which went from 6.5 in 2010 to 5.9 in 2015. On a negative note, therefore, it must be noted that the intensity of treatment has been negatively affected by the growth of the number of patients cared for.

Table 7. Evolution of patients treated in child and youth mental health outpatient units (2010-2015)

	2010	2011	2012	2013	2014	2015
Patients treated	54,570	54,155	57,373	58,570	62,634	70,521
Patients treated per 1,000 children	40.4	39.6	41.4	42.1	45.1	50.7
Consultations per patient treated	6.5	6.5	6.6	6.4	6.2	5.9
Consultations per patient treated (CSMIJ average)	6.4	6.5	6.6	6.4	6.2	6.1
Number of consultations	355,285	352,843	376,981	374,414	389,725	416,012
% of youth, 12-17 age group	43.9	45.3	46.5	47.5	47.1	-

Source: Autonomous Ministry of Health.

Along these lines, the Autonomous Ministry of Health, through budgets and health plans (2016-2020 Health Plan), have taken actions to strengthen the child and youth mental health network. Among other goals, these plans are aimed at improving the networked efforts of these services with the rest of services in the territory.

In the framework of the Care Plan for Persons with Mental Disorders and Addictions, the Mental Health Commission has been established, and integrated into the Pact for Children. This commission is reviewing the mental health care model for children and adolescents treated in the protection system. This must make it possible to guarantee comprehensive care under a single intervention project. A commission has been set up with Children, Health and Education representatives to design a joint training program aimed at protection professionals of the child and youth mental health network.

Unmet shortcomings and challenges

Despite all of these advances, the child and youth mental health care system remains saturated, and this saturation makes for problems in the provision of services, and the impossibility to provide a suitable response to the existing demand.

In some CSMIJ's there is a waiting list for the examination and diagnosis of children that has a direct impact on their health and well-being. On another note, shortcomings have been observed in the intensity of treatment offered from the CSMIJ regarding the frequency of the therapeutic session and in some cases, the therapeutic care needs prescribed cannot be covered by professionals of the service due to the situation of excess demand affecting the center.

Often, this saturation of the child and youth mental health care system makes it impossible to manage situations that would also require care from CSMIJ professionals, but that can be relegated before other more severe cases. The shortfalls in the child and youth mental health system lead to interventions that are not very intensive, with coverage deficits for the less severe cases.

There is also a lack of welfare services for external support for parents with difficulties exercising their parental duties in these circumstances and to suitably meet their needs, as they are often overcome by intra-family conflicts derived from the difficulties in managing these problems (see point 6.1).

There are numerous families with adolescent children who turn to public administrations when they find themselves in situations that overwhelm them and they are unable to manage. These families need services that accompany them and help them care for their adolescent children who present high-risk behavior (high aggressiveness, etc.).

Therefore, mention must be made of the difficulty in finding a public therapeutic resource that is more intensive than that offered by the CSMIJ. In some cases, treatment in neuropsychiatric processes, on an internment or outpatient basis, in the existing private therapeutic centers can be covered through the school insurance policies for adolescent students as of the third year of secondary school, which is covered in the cost of the place. In other cases, families who cannot meet the costs of the care transfer guardianship to the administration for admission of the adolescent into therapeutic centers. In any event, these are not suitable formulas to cover the demand of the therapeutic programs existing among adolescents.

Recommendations

- Increase the allocation of human, material and financial resources for child mental health services and other specific mental health resources of the child mental health system to favor access to it and increase the intensity required by the real need of the child population.
- Increase the provision and allocation of benefits, programs and therapeutic services oriented to guaranteeing psychological accompaniment of adolescents and their families who, due to different factors, have seen a deterioration in their living conditions and personal competencies, and family and social relationships.

7.2. PARTICIPATION OF CHILDREN WITH DISABILITIES IN EDUCATION AND RECREATION IN EQUAL OPPORTUNITIES

Children with special educational needs have the right to enjoy the same educational opportunities as any other enrolled child, and to be enrolled, whenever possible, in ordinary schools and receive proper educational services suited to their special needs that guarantees them the maximum possible development. The available data show that in the 2015/2016 school year, 71.9% of students with special educational needs were enrolled in ordinary schools. Taking it all into account, the special education schools still have 7,282 students enrolled (see Table 8).

Guarantees of inclusion do not just affect the educational system, but also the entire

non-regulated educational offering, such as leisure activities, which provide development opportunities for children. Despite this recognition, children with disabilities face numerous difficulties in being able to fully integrate and participate in normalized services and with the free support and care described in the Convention. The main difficulties found have to do with insufficient support resources, a lack of training for the professionals who intervene and these services' operational shortcomings in their adaptation to functional diversity.

There are adolescents with intellectual disabilities who encounter difficulties in finding educational pathways adapted to their special educational needs in scenarios of post-compulsory education (as of age 16).

Table 8. Evolution of students with special educational needs in the educational system (2005-2016)

School years	Students with NEE enrolled in ordinary schools	Students in special education schools	Total students with SEN (special educ. needs)	% of students with SEN in ordinary schools
2005-2006	15,795	6,779	22,574	70.0
2006-2007	17,074	6,828	23,902	71.4
2007-2008	17,310	6,810	24,120	71.8
2008-2009	19,525	6,868	26,393	74.0
2009-2010	20,282	6,615	26,897	75.4
2010-2011	18,407	6,369	24,776	74.3
2011-2012	18,939	6,568	25,507	74.3
2012-2013	18,068	6,744	24,812	72.8
2013-2014	17,759	6,927	24,686	71.9
2014-2015	18,164	7,147	25,311	71.8
2015-2016	18,625	7,282	25,907	71.9

Source: Autonomous Ministry of Health.

Advancements

Law 12/2009, of July 10, on education (LEC) establishes school inclusion as a guiding principle of the educational system, and the inclusive schools as the foundation for care of all students, regardless of their conditions and capacities. Special Educational Support Units (USEE), organizational resources to provide service to students who present

special educational needs and who may be enrolled in specific schools, work toward the purpose of integrating them into the daily setting. The number of USEE's has progressively risen in recent years, from 316 in the 2010/2011 school year to 476 in the 2016/2017 school year. After years of budgetary cutbacks, the allocation of monitors in public schools has also increased since the 2014/2015 school year.

As for professional training, Law 10/2015, of June 19, on professional training and qualification establishes the duty to promote educational offerings, preferentially linked to level 1 professional qualification, specifically aimed at persons with recognized disabilities who are not in a position to follow ordinary educational pathways.

In 2016, Resolution ENS/2158/2016, of September 19, was approved, on the creation of a pilot plan of Specific Educational Pathways (IFE), for students with mild to moderate intellectual disability who have not earned their secondary school diploma, or have obtained it and have been unable to enter vocational training. This plan has a four-year duration, from the 2016-2017 to the 2019-2020 school year, with a provision of 100 places, with eight school groups in ordinary vocational training schools and public special education schools, where this pilot program is being conducted.

The Autonomous Ministry of Education is currently preparing a draft decree (now in the project phase) on educational care for students in an inclusive system, that attempts to promote the involvement of the entire school, and not only the specialized support staff, in the task of inclusion. This regulation states that there must be no barriers that block participation of all students in the activities organized by the school, in or outside teaching periods, and also stipulates the duty to provide centers with the support and teaching staff necessary to make possible quality education.

As for the leisure area, Decree 267/2016, of July 5, on leisure education activities participated in by minors (persons under 18), the duty to appreciate and adjust the ratio of counselors to the presence of participants with disability, and to also progressively adjust the conditions of sufficient accessibility in communication so that persons with physical, sensory or intellectual disabilities can understand, enjoy and participate in them.

Unmet shortcomings and challenges

There are dysfunctions related with the insufficient availability of resources in ordinary schools to meet these special

educational needs. The staffing of special education teachers and support professionals (counselors, etc.) at the schools is not always in keeping with the care needs of the students. Assignment of support professionals does not always take into account the prescriptions made from the EAP's or other educational and health services. In the budgetary cutback context that has characterized recent years, this allocation of resources has been clearly affected. For example, there are schools that, despite having more students with special education needs, have seen the number of counselor working hours reduced.

There have also been reductions in the assignment of teaching staff to the USEE's of secondary schools, a lack of coverage of working day reductions, temporary leave by special education teachers, lack of professionals assigned throughout the entire student school day, etc.

As for the counselors, the assignment of hours to each school depends on the needs expressed by the entirety of schools taken from a finite pool of hours available for distribution, and not necessarily the number of hours each school needs.

The same considerations can be extended to the sufficiency of resources found in EAP's or CREDA's (educational resource centers for persons with hearing impairments) and the support these services give centers, or the provision of hours of care or support by other specialized professionals (physical therapists, speech therapists, etc.).

These staffing shortcomings also affect non-teaching periods, especially at mid-day. Often, the school lunchroom, or times for field trips or school camp do not have a specific assignment of support staff, and that complicates access for these students.

These shortcomings in resource allocation may be one of the factors that explains why some special education centers receive students with special educational needs who could be enrolled in ordinary schools if they had sufficient support. It may also be behind the current trend to not increase, since the 2009/2010 school year, the proportion of students with special educational needs enrolled in ordinary schools, and the increase since the 2010/2011 school year in the number

of students enrolled in special education schools (see Table 8).

Beyond the school environment, these obstacles also appear in other activities and recreation services organized by organizations and public administrations (holiday day camps, etc.). The shortcomings detected are the difficulties of access due to a lack of sufficient educating staff, or staff with the proper training, and the deficits in the provision of support staff by the affected administration accompanying the participation of these children (or the need for the family to take economic responsibility for the provision of these employees, with a much higher cost than other families. Often the ratios established by law are not sufficient for children with disabilities who participate in ordinary recreation activities.

Recommendations

- Define the ratios for provision of professionals that are suited to care for students with special education needs, in a system of inclusive education, and the needs for support in the classroom. Equip schools with the human resources necessary to make possible the enrollment of these students in appropriate conditions.

- Guarantee the integration of these children in educational recreation activities with the adaptation of the activity to their special educational needs. The training of educators in the care of these educational needs. The non-assumption of additional costs in access fees. And the prohibition of blocking admission of children due to reasons of disability.

7.3. THE FIGHT AGAINST CHILD POVERTY

Catalonia, together with Spain, is among the European countries with the highest risk-of-poverty rates throughout the European Union, with 27.9% of the population under 18 facing this situation. This is clearly above the European average, which is 20.9% (see Table 9).

The prevalence of poverty risk is higher among the child population than in the entirety of the population. But the impact of the financial crisis has been especially damaging to children, which has been one of the groups for whom poverty risk has increased the most since 2008. While poverty risk for the entire population has increased in less than five percentage points, this risk among children has risen by over 10 points (see graph 2).

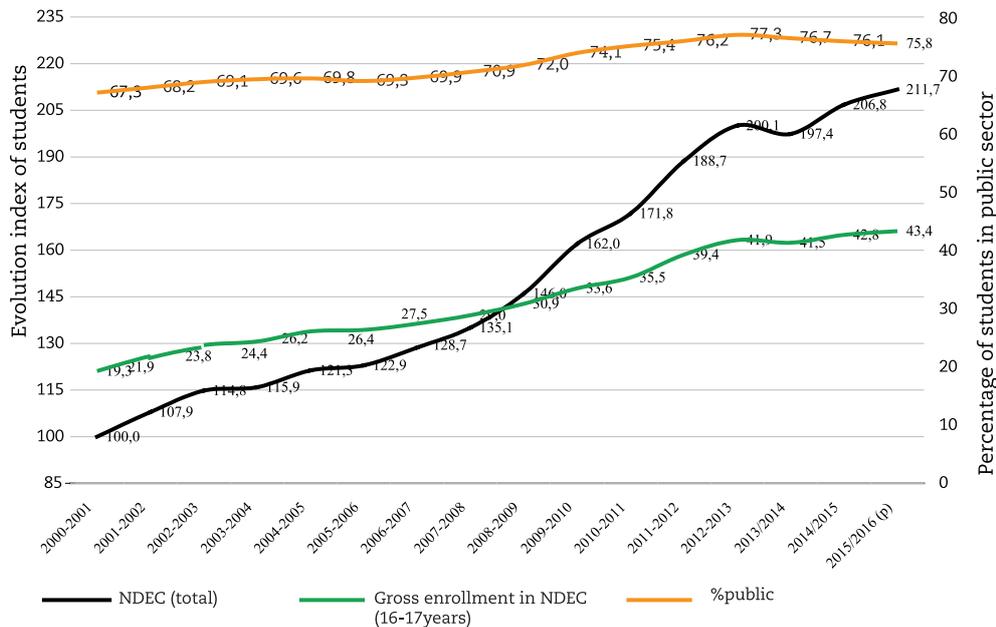
Table 9. Evolution of the at-risk-of-poverty rate (2004-2015)

Children at risk of poverty rate (< 16 years)	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015
European Union	-	19.9	19.9	19.9	20.1	20.0	20.6	20.3	20.1	19.9	20.7	20.9
Spain	25.2	25.7	27.0	25.5	26.8	28.9	28.8	27.2	26.9	26.7	30.1	28.8
Catalonia	20.2	20.6	22.2	18.9	17.6	23.4	23.7	29.4	29.4	27.3	28.8	27.9

Source: Source: Idescat and Eurostat data

Note: There is a break in series for Catalonia in 2013. (1) The total at-risk-of-poverty rate for Catalonia is calculated based on the median income of the Spanish population.

Graph 2. Evolution of the at-risk-of-poverty rate by ages in Catalonia (2004-2015)



Source: Idescat data.

Note: The 2004-2012 data are based on 2004. The 2013-2015 data are based on 2013.

Advancements

The worsening of material living conditions of many children in recent years, due to the impact of the financial crisis, has activated interventions by the public administrations to care for the social needs of the most socially underprivileged children. Since 2010, the 2010-2013 Action Plan for Inclusion and Social Cohesion in Catalonia was developed. Later the Action Plan for the Fight Against Poverty and Social Inclusion in Catalonia 2015-2016, which contains measures specifically aimed at stemming child poverty, came into being.

At a general level, advancements have been made especially in the fields of the fight against energy poverty, care for housing emergencies, with a special impact for families who have dependent children, with regulatory measures such as Law 24/2015, of July 29, on urgent measures to face the emergency in housing and energy poverty, or Law 4/2016, of December 23, on measures of protection of the right to housing of individuals at risk of residential exclusion. Political steps have also been taken, with the implementation of actions aimed at tending to these situations (months to assign social emergency housing, energy efficiency projects, improvement in detection energy poverty situations, etc.). These actions have

made it possible to promote better treatment of social emergency situations, the mobilization of vacant housing, the responsibility of financial entities and large property-holders in rehousing, better treatment in situations of over-indebtedness with relation to one's habitual residence, or protection of the right to basic utilities, among others.

Specifically, in the case of children, there have been advancements such as those made in the fight against child malnutrition, with measures meant to guarantee at least one daily quality meal to all children, through Protocols for the detection and prevention of situations of nourishment difficulties for children and adolescents among the various autonomous ministries involved (Welfare, Education, Health) and local organizations, and through instructions to improve the involvement and detection by health care professionals.

Additionally, as of the 2013/2014 school year, the budget for school lunchroom benefits and the aid-granting progress was redesigned to give more weight to income within the scales, and establish an income threshold below which the aid is guaranteed. Actions have also been taken to meet the educational and dietary needs of children and young people in the summer, with recreation programs ("Play

and Read”, “The Summer is Yours”, etc.), and the opening in summer of entities’ and local government facilities with additional budgetary allocations for federations of recreational education organizations for them to offer subsidized summer activity programs for children and adolescents in situations of vulnerability.

Unmet shortcomings and challenges

Especially in the 2010-2013 period, a number of policies aimed at fighting child poverty were affected by the austerity measures applied to reduce the public deficit. For example, the benefits aimed at children, which concentrated the bulk of the investment, such as the universal economic benefit per dependent child, the minimum insertion income, and school lunchroom financial aid were either suspended or had their overall allocation significantly reduced. It should be noted that some of these restrictions, as in the case of the school lunchroom financial aid, have since been reverted.

Beyond these circumstantial budgetary straits, mention must be made of the structural weaknesses in the system of economic benefits for children. The Catalan model of economic transfers has weak points both in the allocation of financial resources as well as their concentration on the child population.

First, it is worth remembering that Catalonia is among the European countries with the lowest levels of spending on social protection, with 21 of the GDP in .3. This is clearly below the European average (28.7%) and also low levels of efficacy of this expense in the fight against child poverty. If the child poverty levels before and after the social transfers are compared, it can be observed that in Catalonia the reduction of child poverty thanks to the effect of spending on social protection is clearly below the European average. The previously-described low spending on social protection aimed at children and families is one of the factors that explains this phenomenon.

Furthermore, the economic transfer policies associated with the reduction of child poverty in Catalonia, do not necessary identify the

child as a subject entitled to receive a benefit. The existing forms of aid (unemployment benefits, minimum insertion income, etc.) are fundamentally geared to increasing the income of socially vulnerable families, but not necessarily to ensure, through this income, children’s access to social opportunities.

What is more, the universal economic benefits are very limited, and not extended throughout the child’s life cycle, as opposed to what occurs in other European countries, that do not only focus on the first years of the child. The benefits for dependent children, which are no longer universal and are conditioned to income, are granted at birth.

In terms of the scope of benefits, it is worth noting that children with parents who do not enjoy a situation of legal, regularized residence in Spain are permanently excluded from the majority of economic benefits (except aid for education and social urgency benefits).

On another note, most economic benefits are subject to the right of attendance, subject to budgetary availability, and not only the individual’s situation of need.

In fact most economic benefits meant to fight child poverty have coverage percentages below the proportion of the child population in this socio-economic situation. The increase in social precariousness during the economic crisis, without an equivalent increase in spending on social benefits, have made this deficit of coverage rise in recent years.

Focusing on the eligibility thresholds for economic benefits, it is interesting to note that the adequate income indicator for Catalonia (IRSC), which serves to evaluate the situation of need in order to have the right or access to benefits, is between 10% and 40% below the poverty risk threshold established by the OECD, depending on family type.

What is more, income thresholds tend to be very restrictive in the granting of certain benefits, a circumstance that leads to families with especially low incomes not having access.

The intensity of the economic benefits in Catalonia, as occurs in most southern and

eastern European countries, is among the countries with the lowest levels for family support benefits.

Beyond the economic benefits, the social service system suffers other weaknesses, such as the insufficiency of preventive services, and especially, services aimed at families, as outlined in point 6.1.

The legal framework in Catalonia stipulates both the struggle against situations of poverty among the objectives of public authorities' actions, and the configuration of a specific right, in the Statute, to access a level of income that ensures dignified life (Article 24.3 of the Statute of Autonomy of Catalonia, from 2006). Likewise, and despite this formal recognition, in the case of children, regulatory development that makes this right to an income that ensures an appropriate standard of living, is still needed.

Recommendations

- Establish by regulation the minimums considered essential to guarantee children's rights to an appropriate standard of living, determine the adequate economic income that a family must have to guarantee access of any child to these established minimums and create a specific benefit conditioned to income to guarantee that families with children who do not have the necessary income can meet the established minimums, taking into account the provision in the Statue of Autonomy of Catalonia on the right of persons or families in situations of poverty to have a guaranteed income of citizenship that ensures them the minimums necessary for a dignified life (Art. 24.3).
- Design comprehensive plans against child poverty, so that the different actions taken can be coordinated and shared, and more efficacious and comprehensive responses can be given to the needs of children who are in this situation.
- Configure an integrated system of economic benefits to fight child poverty, fundamental to more effectively and intensely battle child poverty, that improve the integration of service provisions and economic benefits to better promote equal opportunities of children in situations of poverty.

8. EDUCATION, RECREATION AND CULTURAL ACTIVITIES

8.1. SCHOOL SEGREGATION

All over Catalonia, there are many neighborhoods and municipalities with major imbalances in the social composition of their schools, and some “ghettoized” schools with a high concentration of socio-educational complexity. Taking as an example the distribution of foreign students among schools calculated based on the index of dissimilarity, one soon realizes that to achieve full equality in schools’

social composition, hypothetically, 48% of these students in primary school, and 39% of those in secondary school (see Table 10²) would have to change schools. The analysis of the evolution of indexes of dissimilarity also concludes that, since the 2006/2007 school year, in primary and secondary school, no significant progress has been made in the fight against the school segregation of foreign students. In Catalonia, in 2015 there were 101 primary schools (4% of the total) and 24 secondary schools (2%) that had student bodies with over 50% foreign students, or 330 primary (15%) and 171 secondary (16%) schools that are considered of high complexity.

Table 10. Evolution of school segregation levels in Catalonia (2001-2014)

Stage	2001/2002	2006/2007	2011/2012	2013/2014
Primary	0.51	0.49	0.47	0.48
Secondary	0.41	0.40	0.38	0.39

Source: Autonomous Ministry of Education data.

Note: the data refer to levels from P3 to 6th grade for primary school, and the 1st to 4th years of secondary as secondary school. The indexes of dissimilarity of this table are calculated for all Catalan municipalities that have at least two primary or two secondary schools.

School segregation limits the opportunities of socially underprivileged students to achieve the maximum possible development, either because it negatively conditions their school careers or because it impedes their possibilities of socialization in school environments with social and cultural capital comparable to the social reality in which they live. For society, school segregation has two costs: in addition to the negative effects on school performance and the educational system, it also has effects on respectful civic life and present and future social cohesion.

These differences in the social composition of schools end up having a negative effect on the configuration of educational projects, and also, consequently, on the educational opportunities schools can offer. Schools with a privileged social composition, in general

tend to have more resources from the fees paid by families, more social capital, more identification of the school community with the school and more participation in the activities they organize. Consequently, this generates a greater capacity to develop projects, more energy or capacity by parents’ associations to finance and promote actions that have a positive impact on the school’s educational project, more possibilities to promote complementary and out-of-school activities organized at the school, less turnover of faculty due to the lower educational complexity they have to manage, etc. The vicious cycle of school segregation is played out as follows. Families with more selection capacity, who also have more cultural and economic capital, and generally develop more informed and complex school selection strategies, select their school depending on its educational project, the

² The index of dissimilarity measures the proportion of the analyzed group that (hypothetically) would have to change schools to achieve a perfectly equal distribution (ranging from 0 to 1, with the situation of perfect equality being 0 and maximum inequality, 1). For example, an index of dissimilarity of 0.5 indicates that, to achieve a perfectly equal distribution, 50% of foreign students would have to be enrolled in other centers.

administration, faculty or social composition, among other factors.

To fight these imbalances, public administrations can intervene in two main areas: on one hand, programming the offering and management of the student admissions process (reservation of places for students with specific educational needs, zoning and school districts, criteria of admissions priority, etc.); and on the other, measures meant to equalize enrollment conditions of students in different schools (enrollment costs, educational projects, material conditions, etc.).

Advancements

The Autonomous Ministry of Education has developed measures to reinforce high complexity schools that have had good results. Some of these specific measures include pedagogic audits, more staffing of professionals, maintaining the “sixth hour” (one more hour of class per day) or ratio reductions to 22 students per class. Currently, high complexity schools work with more teachers, fewer students, and a longer school day. In recent years, there has been an overall improvement of the academic results in the educational system, and more noticeably in schools with high educational complexity. However, this improvement in academic results has not made it possible to improve inequalities in schools’ social composition: socially underprivileged students are achieving better academic results than they were some years ago, but they are not less affected overall by school segregation.

In general terms, there is also more awareness by the various admission guarantee commissions on the need to fight ghettoization of certain schools and prevent the practices most visibly related with the reproduction of school segregation, such as the concentration of the so-called “dynamic enrollment” in certain more socially stigmatized schools. In some municipalities, there has been an implementation of certain best practices to detect students with specific educational needs and assign them to reserved places.

In early 2017, the Autonomous Ministry of Education expressed its will to develop specific actions to fight school segregation,

and has already formulated some proposals pending implementation such as the elaboration of instructions for admissions guarantee commissions to make use of the instruments already available to fight school segregation.

Both the Catalonia Education Act (LEC) from 2009, and Decree 75/2007, which regulates the admission of students, offer a broad range of actions to develop measures that promote balanced enrollment of students among the different centers.

Unmet shortcomings and challenges

Although at the local level there have been very positive experiences, the Autonomous Ministry of Education did not show in the 2010-2015 period a sufficiently active and convincing position to fight school segregation through the instruments offered by regulations that regulate the pre-registration and enrollment procedure. This lack of conviction is shown in the lack of regulatory implementation, through a new decree of student admissions, of the main instruments called for in the Catalonia Education Act of 2009 to fight school segregation, especially the possibility to establish maximum proportions of students with specific educational needs in schools or the extension of place reservation validity until the beginning of the school year (Art. 48.1), seven years after ratification of the LEC, shows the weak political determination in this field.

The main development related with the student admissions process, and that have had an impact on the fight against school segregation, have basically been focused on increasing the margins of school selection and satisfaction of demand, more than dealing with this phenomenon head-on

In many municipalities there is still an under-usage (or passive usage) by the Autonomous Ministry of Education of the various instruments available to it in the regulations to promote the balanced enrollment of students. There are still broadly generalized shortcomings. For example, the usage of place reservations, which is the main instrument currently available, especially due to the low proactive

detection of specific educational needs during the ordinary admissions process, or the lack of specific accompaniment actions of students with specific educational needs to this reservation in the admissions process. Further, sufficient use is not made of ratio augmentations or reductions as a measure to promote balanced enrollment for registrations outside the regular period, nor are assignments (between schools) or school districting used to fight school segregation.

One of the main segregating factors are the enrollment costs that students must assume, especially in subsidized private schools, which have one more hour of class per day (for complementary activities) than most public schools. In some schools, the gratuitousness of the complementary activity is not guaranteed to students with specific educational needs assigned ex-officio.

Due to budgetary restrictions derived from the economic crisis, in recent years, measures oriented to promoting the co-responsibility of subsidized private schools in the enrollment of students with specific educational needs have been weakened, with program-contracts or reduction of the investment earmarked to finance equal opportunity enrollment of students with specific educational needs in subsidized private schools.

In any event, there exist major inequalities in the fees families have to pay between the public and private subsidized sector, but also within the two ownership modalities. The differentiation in enrollment costs assumed by the families of every school are also a determinant factor to understand the differentiation among educational projects in public and private subsidized schools, which are conditioned by families' capacity to finance projects and activities (through fees) and generate educational opportunities available to students.

Recommendations

- Develop regulatory measures, such as a new Student Admissions Decree, to implement new instruments to fight school segregation.

- Develop active measures for planning the offering of school places in municipalities to fight school segregation.

- Actively use instruments, such as the reservation of places for students with specific educational needs, as a balanced student enrollment instrument. Strengthen the role of guarantee and supervisory bodies to detect irregularities and promote local pacts among schools of the same area of municipality for balanced enrollment of students.

- Develop measures to better guarantee education free of charge and co-responsibility of schools.

- Develop more intense measures for affirmative action and compensation for centers with socially underprivileged social compositions.

8.2. PARTICIPATION IN NON-COMPULSORY EDUCATION

Compulsory school enrollment, with the free, universal provision, includes primary education (EP) and compulsory secondary education (ESO). Beyond this fact, the LEC establishes that there are non-compulsory stages of education (second-cycle preschool, non-degree vocational training, initial professional qualification programs) that are also free of charge and universal.

Further, Organic Law 2/2006, of May 3, on education (LOE), and Law 5/2004, of July 9, on the creation of quality nursery schools, establishes the public administrations' duty to guarantee sufficient offering of first-cycle child education (from 0 to 3 years).

First-cycle preschool and vocational training are strategic areas fundamental for the promotion of children's rights and opportunities. Among the most socially underprivileged population, the initial school enrollment helps prevent and fight the depriving effects that child poverty causes in the development of children who suffer from it. Vocational training, as it forms part of the preferred educational pathway among socially underprivileged groups, more geared to occupational insertion and professionalizing educational careers, is a

strategic educational sector when it comes to fighting school drop-out phenomena, and the effects of social origin on the unequal access to post-compulsory education.

Precisely one of the structural shortcomings of our educational system has to do with the

high prevalence of drop-outs, which, despite the positive evolution of recent years, stood for 18% of the total in 2016, with proportions still significantly higher than the European Union average (11%) and the 15% set by the 2020 European Strategy (see Table 11).

Table 11. Evolution of drop-outs. Catalonia, Spain and EU-28, 2000-2016

	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2020 Objective
Catalonia	29.7	30.3	31.3	34.3	34.1	33.2	28.5	31.2	32.9	31.9	28.9	26.2	24.2	24.7	22.2	18.9	18.0	(15% Sp.)
Spain	29.1	29.7	30.9	31.7	32.2	31	30.3	30.8	31.7	30.9	28.2	26.3	24.7	23.6	21.9	20.0	19.0	
EU-28	17.6	17.3	17	16.4	16	15.7	15.3	14.9	14.6	14.2	13.9	13.4	12.7	11.9	11.2	11.0	...	10

Source: Eurostat, the Statistical Institute of Catalonia, the Spanish Statistical Institute and Ministry of Education.

Advancements

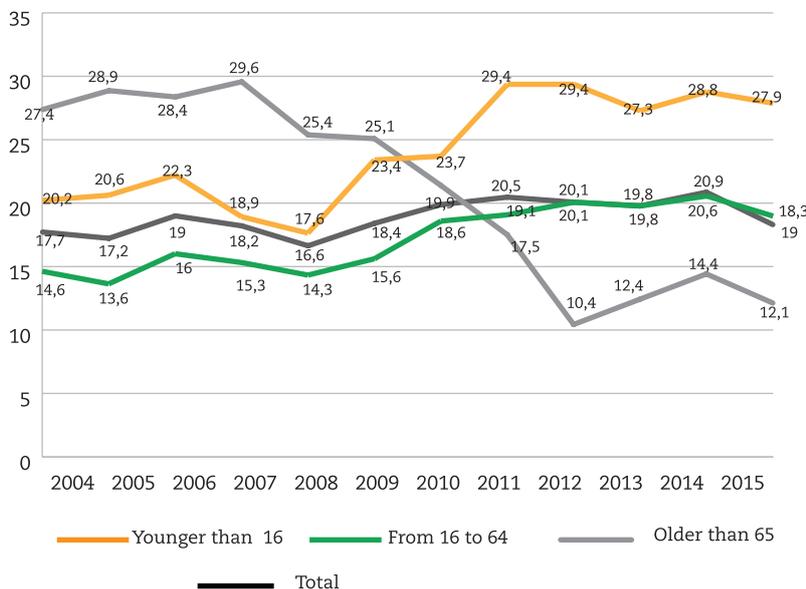
One of the most significant advancements made in education in recent years has to do with a significant reduction of school drop-out rates, which have gone from 32.9% in 2008 to 18.0% in 2016. Aside from the economic juncture, which has made rapid, easy access to the job market by unqualified youths more difficult, and has favored the continuance and return of young people to the educational system, it must be said that the Autonomous Ministry of Education has made a significant effort to provide places in vocational training: since the 2007/2008 school year, the offering of non-degree vocational training has been expanded by over 20,000 new places, which is a 56.7% increase. If the advanced degree educational

places are added to these, the increase totals nearly 40,000 places in this period (Graph 3).

The reduction in drop-out rates has also been possible thanks to improvement in the educational results obtained in compulsory education levels. The ESO graduation rate has risen from 79% in 2007 to 87.7% in 2015.

Advancements in vocational training include the 3rd General Plan for Vocational Training in Catalonia 2013-2016 or Law 10/2015 of June 19, on education and vocational training, that contribute to integrating the various vocational training sub-systems, to make access to them more flexible, consolidate competency accreditation systems, promote dual vocational training, etc.

Graph 3. Evolution index of students in non-degree educational cycles. Catalonia, 2000-2016



Source: Developed from data from the Catalan Autonomous Ministry of Education.

Unmet shortcomings and challenges

The inequalities of access and participation in non-compulsory education are the main shortcomings in this area: in general, socially underprivileged children access the educational offering, obtain worse results throughout their school careers, and leave

the educational system earlier than more socially affluent children. The differences in the levels of enrollment at pre-compulsory ages (0 to 2 years) and post-compulsory ages (at 17 years) are over 30 percentage points between parents with low levels of studies and higher educational levels (see Table 12).

Table 12. Participation in education by children ages 0-2 and 17 per parents' level of education in Catalonia (2011)

Father's educational level	%	%
Primary or lower	32.0	43.6
Secondary and non-university post-secondary	55.7	60.1
University studies	65.1	75.8
Mother's educational level	%	%
Primary or lower	29.4	41.8
Secondary and non-university post-secondary	53.0	60.4
University studies	66.0	74.6

Source: 2011 census.

These inequalities can be partially explained by socio-economic reasons and basically have to do with the costs of access to educational offerings. Family income, especially of families with less advantageous social situations, is not always sufficient to cover the expense of enrollment in these educational stages.

In the case of first-cycle preschool, it must not be overlooked that the inequalities of access do not make it possible to compensate the impact of a family's cultural and economic capital on the children's later school careers. Rather, they reproduce them. In other words, children who belong to families with higher educational capital, that begin from a situation more socio-educationally favorable for their school careers, are those that most access these educational resources, those that socialize first and come into contact with the school institution.

It is worth noting that the conditions of access both to first-cycle preschool and vocational training have been affected by budgetary restrictions.

In the case of first-cycle preschool education, up to 2011, public authorities

made a sizable effort to provide public places. In the period between the 2000/2001 and 2011/2012 school years, nearly 44,000 new places were created, at a pace of 4,000 places annually, nearly 40,000 in the public sector, which made it possible to increase the enrollment rate for 0-2 year-olds by nine percentage points, and the public enrollment rate by 13 percentage points, more than doubling the previous level. However, following years of growth, in the 2011/2012 school year the enrollment rate for this stage stabilized, and the trend has continued until the present (with the destruction of over 10,000 places) (see Table 13). One of the factors that has caused a drop in provision of the offering and demand has been the reduction of public spending in this period, especially the reduction of the subsidy that the Autonomous Ministry of Education granted local administrations for sustaining a public place of first-cycle preschool (1,800 € per place/course to less than 1,000 €) and cutbacks in the grants given to more socially underprivileged families, among others. This reduction in public spending has been accompanied by a generalized increase in the monthly fees for public preschools in some municipalities by local councils, and also by private preschools.

The suspension of the main measure that existed to finance financial aid and promote economic access to first-cycle preschool has meant that in a majority of municipalities, at

least in the courses immediately following this cycle, there have not been other measures specifically focused on facilitating access of more socially underprivileged families.

Table 13. Evolution of the first-cycle preschool enrollment rate in Catalonia (2000/2001 - 2015/2016)

	2000- 2001	2001- 2002	2002- 2003	2003- 2004	2004- 2005	2005- 2006	2006- 2007	2007- 2008	2008- 2009	2009- 2010	2010- 2011	2011- 2012	2012- 2013	2013- 2014	2014- 2015	2015- 2016
N (total)	47,914	51,014	56,092	60,429	65,650	70,765	73,801	80,032	84,221	86,070	88,552	92,003	84,244	82,091	79,031	79,027
Rate (total)	27.9	27.6	28.3	29.3	29.8	30.6	31.1	32.5	33.1	33.3	34.4	37.0	35.2	36.0	36.1	37.6
N (Public sector)	16,847	17,746	21,247	23,833	27,685	31,431	34,721	40,516	45,158	49,351	52,307	56,765	53,064	51,659	50,033	49,946
Rate (public)	9.8	9.6	10.7	11.6	12.6	13.6	14.6	16.4	17.7	19.1	20.3	22.8	22.2	22.7	22.8	23.8

Source: data from the Autonomous Ministry of Education and the Municipal Census at January 1 for each year.

As regards access to vocational training, the Autonomous Ministry of Education.

Furthermore, the importance of vocational training and the advancements achieved in providing places contrasts with the fact this offering is still quantitatively deficient in Catalonia if compared to that of other European countries. In fact, Catalonia is one of the European countries with the lowest training offering in non-university, post-compulsory education compared to the volume of students enrolled in compulsory education. Therefore, the vocational training system still has ample room to grow in Catalonia.

Another of the instruments promoting the continuance of young people in the educational system is the offering of training and insertion programs (PFI, which substitute the PQPI). These programs are meant to promote continuance in the educational system of students who do not graduate. Along these lines, Catalonia has PFI enrollment rates that are significantly lower than the Spanish average (if the Basic Vocational Training is taken as a reference). For every 100 16 or 17 year-olds, there are approximately five who study a PFI, while the Spanish average is around 10. Additionally, since the 2010/2011 school year, the provision of places has remained practically stable, and this deficit has not been corrected.

Recommendations

■ Increase financing of first-cycle preschool and establish financial aid systems, of

benefits or social tariffs to guarantee equal opportunities in access to education for children of socially underprivileged children, and that no student be excluded from any educational area for economic reasons.

■ Increase (still more) the vocational training offering and expand the offering of places in training and insertion programs (PFI) and other programs of second opportunities for students with enrollment difficulties.

8.3. SHORTCOMINGS IN GRATUITOUSNESS OF COMPULSORY EDUCATION

Although the legal framework establishes the gratuitousness of education, compulsory education means the assumption of direct costs (books, school supplies, field trips, complementary activities, etc.) by students and their families. This also includes indirect costs (school lunchroom, transportation, etc.) for students of public as well as subsidized private schools, which are not always covered by grant policies.

In fact, especially in the wake of the financial crisis, there are families who cannot take responsibility for the purchase of the necessary books and school supplies, nor for the cost for field trips, and cannot guarantee for their children the conditions to appropriately participate in the activity of their school, as their classmates do. Numerous students begin the school year without books or school supplies, and do not have them until they can purchase them

with their own means, with the help of social services, or solidarity measures applied by the schools. This intervention by social services, although it does mean meeting the needs of children from an assistance standpoint, questions the consideration of the right to education free of charge consecrated in the legal framework.

The legal provision of establishing public aid and the possibility to establish school supply or field trip fees does not mean that such a payment necessarily be mandatory. Furthermore, the duty to establish benefits for certain school activities implies recognition of the students' right to participate in them and not be excluded for economic reasons.

Advancements

In relation with grants, it is worth noting that following a period of budgetary cutbacks, there has been improvement in recent years in the design and allocation of lunchroom benefits, with an increase in the number of beneficiaries as of the 2013/2014 school year, also with the establishment of a threshold of income that guarantees they be granted regardless of the demand, and more recently, with the change in the IRSC scale for the threshold of poverty risk.

Furthermore, the new subsidy for schools of high complexity derived from the socio-economic characteristics of the student body and the environment is also apparent. This subsidy is for the children to purchase textbooks and educational and computer supplies to loan to students who cannot acquire them due to their family's economic situation. This subsidy also provides coverage to schools with more underprivileged social compositions (nearly a third of the total), but not all socially underprivileged children.

The development of systems to reuse books at the majority of schools has made it possible to significantly reduce family expenditure in textbook and complementary educational supplies, among other items.

As for the granting of benefits, it has also become apparent that in some of the calls for applications there has been a reduction in the period of time allowed to hand down

a decision, and for some of the families, to collect the grants, once the application has been filed.

Unmet shortcomings and challenges

The Catalan educational system is characterized by a low investment in such grants if compared to the European average. Catalonia devotes around 1% of its spending in non-university education to grants, while the overall investment of the European Union is around 3%.

Currently, in the framework of compulsory education, there is only one consistent grant system to guarantee access of socially underprivileged students in the case of school lunchroom service (and partially, in the case of school transport). No other enrollment costs are covered by consistent grant policies. Only some local councils have programs of financial aid for enrollment that cover textbook, school supply or field trip expenses for the most socially underprivileged students, who are habitual users of social services.

It is worth noting that the austerity measures applied by the Autonomous Ministry of Education, also with financing from the Ministry of Education, have affected grant policies since 2011/2012, with a significant reduction of the investment devoted to them and the elimination of some existing financial aid. For example, the Autonomous Ministry of Education eliminated the financial aid that existed for purchase of textbooks and complementary school and computer supplies, a breach of the legal provision to adopt the measures necessary to progressively introduce a general financial aid system, in different modalities, for textbooks and other mandatory school supplies.

Further, there is no call for financial aid to pay for complementary activities, not only in subsidized private schools but also public schools, to cover the expenses of field trips and school camps for students of families with the most economic difficulties, though there is also a regulatory provision that makes the establishment of this financial aid mandatory.

Most public and private schools charge families fees for books, supplies and field trips (in addition to the complementary activities and other school services in most subsidized private schools). On occasion, the school itself pressures the family, either directly or through the affected students, for them to cover this expense. On occasion, they condition the students' participation in the planned school activities to the payment of these fees.

Last, it must be added that, in the case of compulsory secondary education, the (indirect) enrollment costs have been greatly reduced at many schools because the school lunchroom service has been eliminated. The introduction of the compressed school day at most public secondary schools (85.3% in 2015) has caused the school lunchroom service to be eliminated. This situation is an obstacle for students in general, and especially for socially underprivileged students, in the access to the service, and consequently school lunchroom benefits. For students with severe nourishment difficulties who are enrolled in secondary schools that have compressed school days but not a school lunch room, the Autonomous Ministry of Education has established procedures to guarantee this service to them. Nonetheless, these measures have a very limited impact, and only benefit students who have a (known) situation of social vulnerability. Most of the socially underprivileged students cannot benefit from them.

Recommendations

- Increase the investment in grants for socially underprivileged students until they reach levels equivalent to the European average.
- Reinstate an official call of financial aid for the purchase of textbooks and educational and ICT material, as established by Article 6.4 of the LEC.

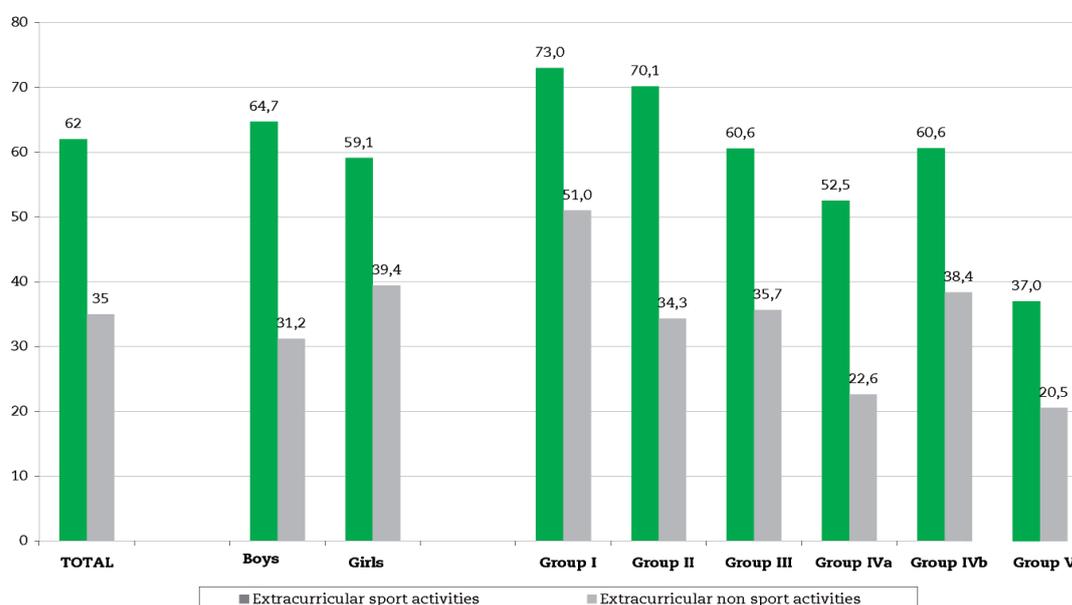
- Grant schools subsidies with which to develop programs aimed at covering the enrollment costs of students from families with economic difficulties, that cover the expenses of textbooks, school supplies, field trips, etc.

8.4. INEQUALITIES IN ACCESS TO RECREATION

According to official data from the Health Survey of Catalonia, in 2015, 62.0% of children ages three to fourteen were involved in some kind of out-of-school sport activity, and 35.0% in non-sport out-of-school activities (music, dancing, languages, etc.) (see Table 14). In other words, in Catalonia, nearly 600,000 children of these ages participate in out-of-school sport activities, and over 300,000 children participate in non-sport out-of-school activities.

Despite the high number of children who participate in educational recreation projects, the participation of children is heavily influenced by inequality in access. Thus, in general, socially affluent children tend to participate more in the activities than more socially underprivileged children. For example, by social class, the inequalities in participation in out-of-school sport activities between the best-positioned and those of an inferior position stand for over 30 percentage points, as also occurs with the non-sport out-of-school activities (artistic, academic, etc.), always in the favor of the former (see graph 4).

The impact of the economic crisis on children's participation in this realm has been irregular. While participation has risen in some recreation areas, in others it has stabilized or the participation levels have even dropped. This is the case of the participation, for example, in non-sport out-of-school activities (see Table 14). The financial difficulties faced by many families due to the effect of the crisis could be one of the factors that explains this diminishment.

Graph 4. Percentage of population under 15 who have participated in the last week of reference in recreation activities in Catalonia (2014, 2015)

Source: developed from the Health Survey of Catalonia (2014, 2015)

Note: The data for social class have been taken from the 2014 Health Survey of Catalonia, and are for the following employment levels:

Group I: executives from the Public Administration and companies with ten or more employees, associated with degrees of the second and third university cycles.

Group II: executives of companies with fewer than ten employees, professions associated with first-cycle university degrees, technical officers, sport professionals, artists and athletes.

Group III: administrative personnel and administrative and financial management support professionals, persons working in personal and security services, self-employed individuals and supervisors of manual laborers.

Group IVa: qualified manual laborers.

Group IVb: semi-qualified manual laborers.

Group V: unqualified manual laborers.

Table 14. Evolution of children's participation in recreation activities in Catalonia (2010-2016)

	2010	2011	2012	2013	2014	2015	2016
Out-of-school sport activities (3-14 years) (%)	59.5	54.9	64.0	65.1	62.8	62	-
Out-of-school non-sport activities (3-14 years) (%)	44.8	39.1	39.4	36.3	36.3	35	-
	2010	2011	2012	2013	2014	2015	2016
Notified educational recreation activities (Directorate General for Youth Affairs)	4,186	4,785	4,674	4,906	5,029	5,514	5,732
Participants (Directorate General for Youth Affairs)	191,262	202,677	188,971	194,350	211,994	245,644	258,429

Source: data from the Health Survey of Catalonia and the Directorate General for Youth Affairs.

Note: The 2016 data correspond to the period of January 1 to October 5, 2016.

The impact of the economic crisis on children's participation in this realm has been irregular. While participation has risen in some recreation areas, in others it has stabilized or the participation levels have even dropped. This is the case of the participation, for example, in non-sport out-of-school activities (see Table 14). The financial difficulties faced by many families due to the effect of the crisis could be one of the factors that explains this diminishment.

Advancements

Although it is an area in which social inequalities are reproduced, educational recreation is deeply committed to equality: there are numerous initiatives and resources devoted to the various organizations and public administrations to make up for these inequalities and promote equal opportunity access to recreation (grants, free services, volunteer participation, public policies, etc.).

During the economic crisis, specific strategies to serve socially underprivileged children from the realm of recreation have been intensified (although the impact over the whole of socially underprivileged children is still small). For example, social action and suppliers of recreation services carry out specific actions aimed at children in situations of social vulnerability (some 10,000 in 2013). There has been a significant increase in the number of publicly and privately funded grants given in recent years. In 2013, the Catalan government approved agreements with the main recreation organizations with a contribution of 1.7 million euros to award grants for places in camps, day camps and other recreation activities for children and adolescents from families in situations of social risk (this was increased by 500,000 € in 2014). Despite the budgetary difficulties, the Autonomous Ministry of Labor, Social Affairs and Families has expanded the number of recreation program places covered by grants (Summertime is Yours, Play and Read, etc.) to make possible participation by children in situations of vulnerability (804 grants for a total amount of 300,000€ in 2015) and has raised in recent years the number of places (from 5,700 in 2007 to 9,300 in 2016) and public investment (5.8 M€ to 9.5 M€) in open centers.

Additionally, mention should be made of the contribution of community educational plans promoted by the Autonomous Ministry of Education, in conjunction with local councils, that contribute to consolidating the offering of educational recreation, among other areas. In recent years, the austerity measures applied affected the financing of these plans, either because of the reduction in the resources devoted to them by the Autonomous Ministry of Education, which is partially attributable to the elimination of the financing from the Ministry of Education, or the reduced contribution from certain local councils (although in other cases local councils have increased their allocations). In fact, data from the Autonomous Ministry of Education indicate that the coverage of community educational plans underwent a regression as of the 2012/2013 school year, in which the number of participating municipalities, the number of potential student beneficiaries and the number of participating centers were reduced. However, this negative trend reverted as of the 2015/2016 school year, with a new rise in the number of plans, municipalities and affected schools, and also in the financing earmarked for such programs. Over the past year, 15 municipalities have become involved and 21 more plans have been created (although 32.2% of schools of maximum complexity do not have community plans, a shortcoming that the Autonomous Ministry of Education has expressed the will to correct).

Unmet shortcomings and challenges

Although public administrations have worked for austerity measures to affect the recreation activities of the most socially underprivileged children as little as possible, it is worth stating that the educational recreation area was deeply impacted, and remains to be so to an extent, by the expense containment and public deficit measures applied by the public administration in the current economic juncture. Although some restrictions have been reverted, such as the subsidies from the Autonomous Ministry of Labor, Social Affairs and Families to recreation organizations, or the community education plans previously mentioned, others persist,

such as the reduction in the financing from the Secretariat General for Sports in subsidies for actions and programs related with federated sport and school support, or the elimination of financing from the Autonomous Ministry of Education in subsidies to local councils and parents associations for out-of-school activities.

In the latter point, there are shortcomings in the implementation of economic accessibility policies for activities, without a general financial aid system that would fulfill the provisions specifically taken up in the LEC.

In this same line, mention should be made of the territorial inequality in availability of offering, with neighborhoods and municipalities of socially underprivileged compositions that have meager offerings that are not diversified and are often conditioned to the investment of public administrations due to the weakness and low implementation of educational recreation organizations in these territories. The differentiation of recreation by social origin is also noteworthy, with offers located in a single territory, but differentiated by the type of children who use them.

Recommendations

- Regulatory implementation of children's right to educational recreation in conditions of equality, especially out-of-school activities, field trips and school camps, as well as services of the schools and the activities and services of educational recreation carried out by the administration or organizations subsidized with public funding (municipal summer camps, music and dance schools, special system language classes, etc.).
- Create benefits for socially underprivileged children through the call for financial aid to facilitate student access to complementary and out-of-school activities in conditions of equal opportunity specified in the law, the subsidies for the creation and maintenance of Parents' Associations in socially underprivileged areas and promote measures for economic accessibility (financial aid, discounts and exemptions, social tariff systems, etc.) to the activities and services of educational recreation carried out by the administrations or organizations subsidized with public funding.

9. SPECIAL PROTECTION MEASURES

9.1. CARE FOR UNACCOMPANIED MIGRANT CHILDREN

In 2016, the protection system cared for some 800 foreign children who arrived in Catalonia without any family, sometimes directly from their countries of origin, and sometimes en route to another destination. Until September 2016, there were 772 children cared for and 485 new admissions. This is an especially vulnerable group, both due to their age and the lack of family members or other support networks. This is also true because they are new to Catalonia and are foreigners, and because of the material, social and health conditions in which they arrive.

In recent years, the presence of unaccompanied migrant children has

fluctuated, although it has followed an upward trend, at least since 2012. This increase in the number of unaccompanied migrant children is coming about in a context in which the reality of immigration is increasingly present in the protection system, with a rise in the number of migrant children under the guardianship of the Administration (1,586 in September, 2016), and increased weight of migrant children cared for within the protection system (of five percentage points, up to 22.7%). The growth throughout 2016 has been especially relevant. Although the data cover up to September 2016, and do not include the new cases that came about in the last quarter, the protection system has 354 more migrant children being cared for and 148 more unaccompanied migrant children than in all of 2015 (see Table 15).

Table 15. Evolution in number of protected children by nationality (2012-2016)

	2012	2013	2014	2015	Sept. 2016
Children under guardianship of the Administration	7,040	7,076	6,985	6,962	6,988
Children under guardianship of the Administration of foreign nationality	-	-	-	1,232	1,586
%	-	-	-	17.7	22.7
Unaccompanied migrant children in Catalonia cared for during the year	438	433	537	624	772
New cases of unaccompanied foreign children in Catalonia during the year	-	-	-	377	485

Source: Directorate General for Childhood and Adolescence Services - DGCAS.

Advancements

Despite this context, some improvements have been made. These are related with the guarantees of legal assistance throughout the process, with the creation of a specialized in-court representation service at the Barcelona Bar Association specialized in the defense of unaccompanied minors in 2015, given the right to be informed and listened to and given the determination that adult age has transcendent legal implications for the lives of these young people, that make advisable professional legal assistance that works to protect the respect for their rights and interests (for example in the planned allegations period) or with the progressive application of certain improvements in the

age determination process, such as the practice of at least two X-ray tests, or the relevant forensic report.

Another advancement is the Civil Division of the Supreme Court establishing case law on Article 35.3 of the Foreign Citizens' Act due to discrepancies in the interpretation among provincial courts, considering that an immigrant with a passport or equivalent identity document in which their age as a minor is reflected cannot be considered a foreigner without identity papers, and be subjected to complementary tests. The ruling states that age cannot be questioned without a reasonable justification that serves as grounds for the performance of the tests.

The Supreme Court has ruled that a judgment of proportionality is necessary, and that the reasons for which the document is considered unreliable, making more age determination tests necessary, must be duly weighed. In any case, whether the person has identity papers or not, medical techniques, especially if they are invasive, cannot be applied indiscriminately to determine age.

This doctrine does away with the systematic practice by the Prosecutor's Office of applying age determination tests to all identified unaccompanied migrant children whether or not they had identity papers.

Unmet shortcomings and challenges

One of the shortcomings that remains to be met is the continuity of the aforementioned practice without the doctrine of the SC being respected on numerous occasions.

As for the tests, there is agreement in the international scientific community that age determination tests have significant margins of error, that are not considered in the cases at hand due to a lack of reference studies with the affected population groups. In light of the fact that margins of error are not contemplated in age determination tests on young people of certain origins (Maghrebis and Sub-Saharan) due to the lack of specific population studies of reference that make it possible to make statistical probability calculations, and given that this is clearly counterproductive in the determination of a possible minor age status, the Institute of Legal Medicine has decided to include in its medical forensic reports the annotation that "there is a margin of error that cannot be estimated due to a lack of population studies of reference."

Beyond these reliability problems, the lack of guarantees for unaccompanied migrant children in this process also has to do with the situations that determine the practice of age determination tests, such as:

- Consideration as migrants without papers (prior requisite in the legal system for age determination) those minors who have passports legally issued by their countries of origin or not declared invalid by any competent body, with validity to accredit

their identity before official bodies, although the previously-mentioned new doctrine of the Supreme Court must make it possible to correct this situation.

- Declaring null and void the papers presented without systematically conducting the necessary checks with the authorities of the youths' countries of origin on the validity of this documentation and its procedural conditions.

- Consideration of the forensic report as an expert exhibit that is definitive, not incomplete, although some rulings have given more validity to the passport than to the medical tests.

- Practice of medical tests (not only in cases of reasonable doubt on the age) without considering the *favoris minoris* principle or, in cases of young people whose passport states that their age is close to adult age (over 17.5 years) without taking into account the principle of proportionality that must be weighed at the beginning of the process.

- Notable shortcomings related with compliance with the recommendations made by various specialists in the medical reports used by the Prosecutor's Office to determine the age of these youths: most medical reports written in recent years do not specify the probability of the estimated age, the existing margins of error, or the interval of deviations from the estimated age; many of the expert reports analyzed do not specify that the forensic estimations of age based on these criteria are subject to considerable risk of error; many of the medical reports analyzed contain expressions that, according to the criteria of prosecutors specialized in minors and foreign citizens for all Spain, should not be admissible, and remit to vague, approximate age estimations (with expressions such as "approximately...", "around..." or "over...").

As regards the protective role of the Administration, the lack of guarantees is focused on aspects such as:

- the circuit of care for unaccompanied migrant children among the various involved administrations (Municipality Government of Barcelona, Autonomous Government, Autonomous Police Force and the Prosecutor's

Office) that contemplates presentation of unaccompanied migrant children before the Juvenile Affairs Prosecutor's Office, as a prior and necessary step for any contact with the protection system, contrary to what occurs with the rest of children in situations of vulnerability, who do so through a prior evaluation of the municipality's social services. The legal framework contains no provision for children and adolescents without local families being presented necessarily and in first instance before the Prosecutor's Office, even if they have identity papers.

- Lack of accompaniment in some cases by the protective administration throughout the age determination process, either during their stay in the Prosecutor's premises (where they are seen by educators who work for the administration if they spend their waiting time in the detention area) or during the performance of tests (transfer to hospital, etc.): this immediate care should not only be to meet their basic needs for subsistence (food, etc.), but to actively guarantee their rights before this initial stage of care, while the doubts about their age are being clarified and the guardianship is yet to be made effective, in the event they are minors.

- Delays in the processing of their nationality or renewal of their residence authorization in certain cases of foreign minors by the protective administration, as legal representative of the children while they were under their guardianship.

- Overcrowding of residential care centers that mostly house unaccompanied foreign migrant children. This overcrowding generates relevant difficulties for educational intervention, especially because, with higher ratios of children per professional, it is difficult to provide these children and adolescents the individualized care they require and the coverage of their emotional needs and well-being.

- The use, for the care of unaccompanied migrant children waiting to be presented before the Prosecutor's Office, of judicial facilities also used to handle detained minors.

- There is a shortage of appropriate accompaniment by competent administrations in the process of release

from the protection system in the case of unaccompanied migrant children that are released from the child and adolescent protection system by proving medical adult age, once the relevant medical age determination tests are completed, or in the case of young people who, despite having been under care for being minors, have reached adult age.

According to information provided by the professionals themselves, the socio-educational complexity of unaccompanied migrant children cared for over the past year has been accentuated by the social profiles of some of the children admitted into the centers. Notwithstanding the internal heterogeneity of this group, there has been a rise in the number of adolescents with disruptive, defiant or aggressive behavior, who consume illegal substances, suffer situations of major emotional stress with added mental health problems, or who on occasion have entered criminal environments, and end up undermining not only their own life paths but also the ordinary operation of the center.

Recommendations

- Promote more guarantees in the age determination process, with measures such as: (1) that the age reflected in their legal documentation be taken into account, as long as it has not been declared null and void, and as long as a situation of adult age cannot be legally accredited. (2), and that the determination adult age not be done solely through medical tests when there is valid legal documentation, as is being done in numerous cases; (3) that, pursuant to the *favoris minoris* principle, medical age determination tests are practiced only in case there are doubts, due to physical appearance or any other condition, towards an individual's alleged adult age, and that what is considered "reasonable doubt" be regulated.

- Review the unaccompanied migrant children care protocol that now exists, in that children about whom there is no doubt they are minors do not have to be presented to the Prosecutor's Office for them to determine their age through medical tests that present serious limitations in their reliability.

■ Process the documentation of children under guardianship (with or without family in Catalonia), so that when they reach adult age they are not in an irregular situation, and begin processing Spanish nationality of children and adolescents under guardianship that meet the requisites of Article 22 of the Civil Code, for whom it is determined that this decision is in their best interest, having listened to and considered their opinion.

■ Increase the number of residential places to prevent overcrowding of residential centers that care for unaccompanied migrant children.

■ Plan, from within the protection system, through individualized plans, the release process of unaccompanied foreign migrant children when they reach adult age, and suitably prepare these young people for this transition process. Guarantee sufficient offering of resources for transition to adult age for unaccompanied foreign migrant children that reach this age.

9.2. CARE FOR CHILD REFUGEES

The Geneva Convention on the Status of Refugees, of which Spain is a signatory, recognizes the condition of refugee for persons who flee their country because their life is in danger, and seeks protection in another country.

Article 22.1 of the UNCRC establishes that “States Parties shall take appropriate measures to ensure that a child who is seeking refugee status or who is considered a refugee in accordance with applicable international or domestic law and procedures shall, whether unaccompanied or accompanied by his or her parents or by any other person, receive appropriate protection and humanitarian assistance in the enjoyment of applicable rights set forth in the present Convention and in other international human rights or humanitarian instruments to which the said States are Parties.”

Article 47 of the Law 12/2009 also specifically establishes that minors seeking international protection, who have been victims of any kind of abuse, negligence,

exploitation, torture, cruel, inhuman or degrading treatment, or who have been victims of armed conflicts, must receive appropriate medical and psychological care, and the qualified care they require. This is also stated in General Comment no. 6 of the United Nations, on the treatment of unaccompanied minors separated from their family outside their country of origin (UNCRC/GC/2005/6), of September, 2005.

Europe has been witnessing a severe humanitarian crisis in recent years as a consequence of the forced movement of hundreds of thousands of individuals because of poverty, war and violence in their countries of origin, who are seeking a space of security, freedom and respect for human rights. This exodus has cost thousands of lives. Before this humanitarian crisis, all public institutions, as well as citizens overall, have the ethical, moral and legal obligation to tend to, assist and welcome refugees, respecting the fundamental rights of asylum and international protection taken up in the aforementioned regulations.

The growing number of minors in situations of vulnerability associated with migratory phenomena requires extraordinary care in the detection of possible minors in the realm of human trafficking (HT). That notwithstanding, the existing data do not confirm that this risk has become a reality. In fact, the number of identifications and cases of actual assistance provided for this reason are not high at this time. Still, HT is a reality in Catalonia (especially in the sex trade) that affects minors in two key scenarios: those in which the victims are minors and those in which children are in HT realms because they are the children of, or live with, HT victims.

Despite the low number of cases detected up to now, there can be no doubt that the impact of HT on minors is very significant, and has special characteristics that must be taken into account by the child and adolescent protection system. Lack of knowledge on this impact is even greater than in the case of adult HT victims, despite its devastating impact on the emotional, physical, and psychosocial areas of the minors.

Advancements

From this perspective, on January 28, 2014, the Catalan Government approved the International Protection Plan of Catalonia, developed with the contributions of different institutions and organizations, that includes the right to asylum, refuge and subsidiary protection, and that defines a number of measures to implement in four years.

Later, with the Government Agreement of September 22, 2015, the Catalonia Refugee Welcome Committee was formed, as a multidisciplinary body for comprehensive coordination made up of social organizations, the local administration and the Autonomous Catalan Government.

In September 2015, the Barcelona City Government launched the plan “Barcelona, Refuge City” to respond and prepare the city to welcome, assist, provide the necessary services and guarantee the rights of refugees, and urge the states to fulfill the most fundamental rules of humanitarian law.

As regards the situation of children and adolescents under guardianship who do not see their rights to international protection respected, the competent administration has agreed to facilitate a map of services specialized in migratory affairs and specialized protocols to establish mechanisms for the detection and care for cases that may be eligible for international protection.

As for HT victims, Spanish law 4/2015 on crime victim status, with which Directive 2012/29/UE has been transposed into Spanish law, highlights the role of the Prosecutor’s Office in the guarantee of the minor victims’ right of protection, with respect to the possibility to adopt any measure suited to the greater interest of the child, and that is necessary to block or reduce the damages that could be suffered by minors (Art. 19) as well as the possibility to adopt specific measures such as documentary statements or those made through experts as measures to prevent secondary victimization of minors during the investigation or trial in criminal court.

Law 5/2008, of April 24, on women’s right to eradicate violence against women, which includes traffic and sexual exploitation of

women and girls, as a manifestation of this type of violence in the social or community realm (Art. 5.4). The consequence of this approach to the phenomenon means that the rest of provisions of the Law are applicable to it, as refers to the prevention, detection and eradication of all forms of violence against women, as well as women’s rights to care, assistance, protection and recovery and comprehensive reparation, and the Network for Care and Comprehensive Recovery for women in situations of violence against women. This provision does not broadly or specifically regulate the situation of minor victims.

The most specific instrument on HT that exists in Catalonia is the Catalonia HT Victims Protocol. As for children, it considers the need to apply protection measures and action protocols called for in the Catalan children and adolescents protection system, under the supervision of the Directorate General for Children and Adolescence Services (DGCAS), and refers expressly to the application of specific protocols for coordination between the DGCAS and other public and private organizations and entities specialized in assisting HT victims. Still and all, these protocols have yet to be developed.

Unmet shortcomings and challenges

Despite the recognition of the rights to asylum and international protection, several situations have been detected in which children and adolescents under 18 who arrive in Catalonia are unable to make this right effective despite the fact that, given their personal situation, they would be eligible to enjoy it.

This lack of recognition of refugee status in Spain does not only occur among children and adolescents in Catalonia. The figures for the granting of international protection in Spain are very low compared to the average of other European countries with similar population and GDP. The number of applications is also very low. In 2014, 0.9% of the total number of asylum applications filed in all countries of the European Union were filed in Spain.

Of the applications filed that year, the Ministry of Home Affairs granted

international protection to 1,585 asylum seekers and denied it to 2,070, which stand for 56.7%. This number has risen in the past year due to the refugee crisis and, in the framework of the European program for refugee resettlement, it is predicted that more individuals could file applications.

Among children and adolescents, especially those who are not accompanied by their families, and have been under Administration guardianship, there are also very low numbers of applications. Therefore, in 2014, none of the children under Administration guardianship requested international protection, and in 2015, only six were informed and advised on how to process the application.

These figures are not in line with the number that would proportionally correspond to the number of applications processed at the international level for individuals from the countries of origin of these children under guardianship. There are currently 64 different nationalities of children and adolescents under Administration guardianship, including minors from Syria and Afghanistan.

This situation could be derived from the shortcomings in the training of professionals and the lack of clear circuits and protocols that make it possible to inform and provide the necessary accompaniment for them to access and properly process the asylum applications of the children and adolescents entitled to them.

There are also delays and negligence in processing the formalities and obtaining accrediting documentation of the alleged facts, without putting in danger the safety of the child or adolescent or their family, and finally, also in the exercise of the right to family extension to the first degree forebears these children or adolescents depend on, once the child obtains refugee status.

On another note, the hosting conditions offered child and adolescent asylum seekers do not meet the minimum standards established in international law, that guarantee specialized assistance to victims of torture, or cruel, inhuman and degrading treatment.

The problems with the age determination procedure and the conditions in which many children and adolescents find themselves when under guardianship and admitted into residential centers of the protection system are a clear example, as many of these children and adolescents do not receive the intensity of psychological accompaniment that would be desirable for their physical and emotional recovery.

As regards minors affected by HT, the lack of specialized resources and clear circuits on how to handle these cases, the delay in taking action, and the level of specialized knowledge on the reality and complexity of HT cannot justify the low number of cases detected. Specific problems have been found in the detection, immediate care, determination of age and personal details, formal identification, security assurance, assistance and the visiting schedule.

Recommendations

- Train the children and adolescent protection system professionals of Catalonia for them to have correct, thorough information on the international protection regulations, and to be equipped with an appropriate system of control and supervision of the assigned task and compliance with the terms of the regulations. Therefore, it is necessary to have a clear protocol of information, guidance, accompaniment and action in asylum and international protection law that binds all actors who intervene in the child and adolescent protection system.

- Ensure the medical and psychological care, the hosting, learning and system adaptation services necessary to guarantee the physical and emotional recovery of these children and adolescents, and that recognize their refugee status.

- A specific regulatory framework must be set, in addition to resources and specialized action circuits to protect minor HT victims within the protection system and develop evaluation tools for the actions being carried out to fight and prevent HT, as well as protecting the victims.

10. FINAL CONSIDERATIONS

In Catalonia, the period between 2010 and 2016, the object of analysis in this alternative report, has mainly been characterized, on one hand, by the approval of the LDOIA, which regulates children's and adolescents' right and opportunities from an overall, multidisciplinary perspective. But the period has also been marked by the application of austerity measures that have had direct effects on public spending and the development of public policies in children's affairs and, lastly, the guarantees for children and adolescents to enjoy these rights.

The austerity measures, which in child and family policies made for a spending reduction of 23.1% in the 2009-2014 period, have not made it possible to significantly correct many of the structural deficits that were already present in public authorities' actions in this realm.

In fact, the first major structural deficit has to do with the low investment in child and family policies, which is 0.8% of the GNP in Catalonia in 2014, but that was already around 1% prior to the crisis, clearly below the entire European Union's 2.4%. This low public spending also has effects on the education and health care areas.

This reduction in public spending, partially reverted as of 2015 thanks to the progressive improvement in the economic situation, contrasts with the evolution of social needs presented by children since 2008, with growing vulnerability and social inequality due to the effect of the economic crisis. Despite the adoption of specific measures aimed at the most socially underprivileged children, there are major social inequalities in the effective exercise of the rights (in the access to education, access to recreation, health, etc.) that have not been directly tackled over these years.

The pressure from a more socially-troubled demand and the duty of public authorities to cover the most urgent social needs have contributed, partially, to budgetary restrictions being more intensely applied in

prevention than in assistance policies. This way, throughout these years, the child and adolescent intervention model, which already depended more on assistance-type measures, has undergone a weakening of preventive strategies.

The austerity measures and this strengthening of a more assistance-based intervention model have made it difficult to advance toward a more comprehensive, multidisciplinary approach to children's rights, in which children, and not organizational issues (distribution of competencies) are truly at the center of public authorities' actions. Even today there is still missing an administrative body of clear reference that intervenes in all of the aspects that have to do with children and adolescent affairs (education, health, protection, etc.), that coordinates the actions of the various administrative areas and services in this subject matter and that helps articulate integrated work that fully addresses children's needs. Public policies still respond too much along the lines of departmental and administrative division, both in the Autonomous Government of Catalonia (Generalitat) and local administrations, and division among services. In fact, despite some specific advancements, transversality has not yet been effectively implemented. The very approval of the LDOIA in 2010, or the Pact for Children of 2013, which was based on this transversal approach, have not made it possible to overcome the fragmented, segmented outlook with which the administration continues to intervene in the matters that affect children. With this will to place children in the center of focus, another pending achievement is to get them to participate in the planning and evaluation of public child and adolescent policies, which are rooted in approaches that are still too adult-centric.

In light of this context, the main recommendations made by this complementary report refer to increasing investment in child and adolescent policies, strengthening prevention, fighting social inequalities and promoting transversality, placing the child at the center of the policies.

SÍNDIC

EL DEFENSOR
DE LES
PERSONES

Síndic de Greuges de Catalunya
Passeig Lluís Companys, 7
08003 Barcelona
Tel 933 018 075 Fax 933 013 187
sindic@sindic.cat
www.sindic.cat

