

## **SPAIN**

The Kingdom of Spain, with a population of approximately 47 million, is a parliamentary democracy headed by a constitutional monarch. The country has a bicameral parliament: the General Courts or National Assembly, consisting of the Congress of Deputies (lower house), and the Senate (upper house). The head of the largest political party or coalition was usually named to head the government as president of the Council of Ministers, the equivalent of a prime minister. The national election held in 2008 was free and fair. The Spanish Socialist Workers Party (PSOE) won the multiparty election, and Jose Luis Rodriguez Zapatero was reelected president. Security forces reported to civilian authorities.

There were some reports that security forces abused suspects and mistreated migrant children in detention centers. Prisons were overcrowded, and authorities delayed legal assistance and the arraignment of arrested persons before a judge. Government corruption occurred, particularly at the provincial and municipal levels. Domestic violence, trafficking in persons, and societal discrimination against Muslim groups were reported. Jewish groups reported isolated acts of vandalism and anti-Semitism, and there were incidents of societal violence against other minorities.

### **RESPECT FOR HUMAN RIGHTS**

Section 1    Respect for the Integrity of the Person, Including Freedom From:

a.    Arbitrary or Unlawful Deprivation of Life

There were no reports that the government or its agents committed arbitrary or unlawful killings.

On March 16, the Basque separatist terrorist group ETA killed one person in an attack in a small town outside Paris, France. During the year authorities arrested 58 ETA members as well as seven persons allegedly involved in ETA's street violence campaign. In addition, 22 members were arrested in France and eight in other countries. The Office of the General Prosecutor reported that during 2009 there were 49 trials of persons directly or indirectly related to ETA. Courts handed down 49 sentences that affected 113 persons, 86 of whom were convicted and 27 acquitted.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The constitution and laws prohibit such practices, and the government generally respected this prohibition; however, there were reports of police mistreatment and impunity.

The Coordinator for the Prevention of Torture (a group of Spanish human rights nongovernmental organizations (NGOs), universities, and bar associations) reported that in 2009 there were 242 reports of torture or mistreatment involving 624 complainants, up from 520 complainants in 2008. According to the group, 64 of the complaints involved cases against local police authorities; 43 against the national Guardia Civil; 197 against the national police authorities; 190 against the Catalonia local police, the Mossos d'Esquadra; 46 against the Ertzaintza (Basque authorities); and 65 against prison staff. The autonomous regions with the highest number of complaints were Catalonia (215), Basque Country (104), Madrid (103), Andalucía (81), Galicia (47), and Valencia (34). The number of reports involving the Mossos d'Esquadra increased from 45 in 2008 to 190 in 2009. The majority of these complaints were related to student demonstrations in Barcelona in May 2009, when police clashed with students and others over plans to increase tuition and enact new higher education legislation. The 215 complaints in Catalonia relate to 36 cases.

In February 2009 the Prosecutors' Office initiated an investigation into allegations of mistreatment brought by 85 persons detained in Madrid's internment center for foreigners. The detainees complained that authorities forced them to undress, beat them, and threatened them. They also claimed that the food served contained sedatives. A Ministry of Interior spokesman rejected the accusation, stating that international institutions that had inspected the facilities (including a delegation of the European Parliament) had approved of the living conditions.

There were new developments in the case of 15 members of the Guardia Civil accused of torturing ETA members Igor Portu Juanean and Martin Sarasola Yarzabal during their arrest in 2008. On December 30, the San Sebastian Court sentenced four of the Civil Guards – Sargent Juan Jesus Casas, Corporal Jose Manuel Escamilla, Corporal Sergio Martinez, and agent Sergio Garcia – to a total

of 11 years in prison between them and prohibited them from serving in a public position for 40 years. The court acquitted the other 11 defendants. The court ordered the Civil Guard to pay 18,000 euros (approximately \$24,120) in compensation to Portu and 6,000 euros (\$8,040) to Sarasola.

On July 26, the Supreme Court annulled the original sentence against four Catalan police officers who allegedly assaulted a detainee in 2007. In 2009 the Barcelona court found that the officers had not mistreated the complainant or perjured themselves, as the prosecutor claimed, but did find them guilty of using excessive force. Three of the officers were fined 600 euros each (approximately \$800) and ordered to compensate the complainant 1,610 euros (\$2,160). The Supreme Court accepted the appeal by the Prosecutor's Office and issued a new sentence that maintained both the 600-euro fine and 1,610-euro compensation but absolved one of the officers of mistreatment. The Supreme Court also absolved all four police officers of committing crimes of moral integrity, torture, and falsifying documents.

According to the 2009 report by the Coordinator for the Prevention of Torture, there were 624 complaints against security forces and jail functionaries for abuse of authority, 45 more than in 2008. The report indicated that in 2009 a total of 11 persons died while in police custody, 28 died in jail, and two minors died while in detention centers for youth.

### Prison and Detention Center Conditions

Prison and detention center conditions met most international standards, and the government permitted visits by independent human rights observers.

Prisons were overcrowded, with an overall inmate-per-cell ratio of approximately 1.7 for cells that were designed for one inmate. During the year there were six new prison facilities under construction. According to the 2010 UN Universal Periodic Review of Spain, the government budget for renovating and expanding prison facilities through 2012 – involving the construction of 18,000 new cells of different types in 46 new centers – was 1.6 billion euros (\$2.2 billion).

As of October there were a total of 75,503 inmates in prison, of which 14,751 were in custody while awaiting trial. Approximately eight percent of the prison population was female. There were four facilities exclusively for female prisoners. Juveniles (those under the age of 18) were sent to separate detention centers.

Prisoners and detainees had reasonable access to visitors and were permitted religious observance. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and request investigation of credible allegations of inhumane conditions. In addition, authorities investigated credible allegations of inhumane conditions and documented the results of such investigations in a publicly accessible manner. The government generally investigated and monitored prison and detention center conditions.

Between March 3 and May 7, the National Mechanism for the Prevention of Torture made 54 unannounced inspections to detention centers throughout the country and reported no irregularities or signs of mistreatment. Prisoners can file complaints regarding mistreatment with the national ombudsman, who will investigate complaints but does not have authority to take corrective measures directly.

On September 24, the minister of interior reported that 5,000 volunteers and 500 nongovernmental organizations (NGOs) were assisting prison inmates and that 17,500 inmates were enrolled in education programs, of whom 700 had obtained a university degree.

#### d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention, and the government generally observed these prohibitions.

#### Role of the Police and Security Apparatus

Civilian authorities maintained effective control over the armed forces and civil guard, and the government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year. Police forces include the national police and the Guardia Civil, both under the authority of the central government, as well as municipal police and police forces under the authority of Catalonia and the Basque Country regional governments. All police forces operated effectively, with isolated reports of corruption. .

#### Arrest Procedures and Treatment While in Detention

The law provides that police may apprehend suspects with probable cause or with a warrant based on sufficient evidence as determined by a judge. With certain

exceptions, police may not hold a suspect for more than 72 hours without a hearing.

Detainees generally were promptly informed of the charges against them, and the courts released defendants on bail unless they believed the defendants might flee or be a threat to public safety. The law provides detainees the right to consult a lawyer. However, there were often lengthy delays between the time a detained person first requested a lawyer and the time the lawyer arrived at the place of detention. The state provided legal counsel to indigent detainees.

In certain rare instances involving acts of terrorism, the law allows authorities to detain persons for up to five days prior to arraignment with the authorization of a judge. In these cases a judge also may order incommunicado detention for the entire duration of police custody.

The law stipulates that suspects held incommunicado have the right to an attorney and medical care, but they are neither allowed to choose an attorney nor see a physician of their choice. The court-appointed lawyer is present during police and judicial proceedings, but detainees do not have the right to confer in private with the lawyer.

In March 2009 the UN special rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism expressed concern about incommunicado detention wherein certain terrorist suspects can be held for up to 13 days prior to arraignment without the right to confer privately with their attorney of choice.

During the year the government continued to implement preventive measures to safeguard the rights of detainees held incommunicado, including the application of protocols and continuous video surveillance in the detention facilities and interrogation rooms.

Lengthy pretrial detention was a problem. As of October approximately 20.5 percent of the 75,503 persons in prison were pretrial detainees. Under the law, authorities may not detain suspects for more than two years before putting them on trial unless a judge authorizes a further delay, which may extend to four years. In practice pretrial detention was usually less than one year.

e. Denial of Fair Public Trial

The constitution provides for an independent judiciary, and the government generally respected judicial independence in practice.

### Trial Procedures

The constitution and law provide for the right to a fair trial, and an independent judiciary generally enforced this right. Trials are public, and there is a nine-person jury system. Defendants have the right to be represented by an attorney (at government expense if indigent), confront witnesses, present witnesses on their behalf, and have access to government-held evidence. Defendants enjoy a presumption of innocence and the right to appeal.

### Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

### Regional Human Rights Courts Decisions

In 2009 the European Court of Human Rights (ECHR) issued 11 judgments that found at least one violation by the state of the European Convention on Human Rights. The violations involved the right to a fair trial (five violations), length of judicial proceedings (three violations), inhuman or degrading treatment (one violation), no punishment without law (one violation), right to respect for private and family life (one violation), and discrimination (one violation).

On September 28, the ECHR ordered the government to pay 23,000 euros (\$30,800) to ETA member Mikel San Argimiro Isasa for not having undertaken an "effective investigation" of the alleged torture he suffered when arrested in Madrid in 2002 for placing a bomb under a police car. The court indicated that the state violated article 3 (prohibition of torture) of the European Convention on Human Rights from a procedural point of view because of the lack of an effective investigation. The decision also held that the state did not violate the article from a substantive point of view (i.e., through mistreatment of San Argimiro) because the court could not establish that San Argimiro was tortured.

The government complied with ECHR decisions and paid compensation ordered by the court. Spanish case law also makes repeated references to ECHR's case law, and in some instances the government implemented new procedures or legislation following an ECHR decision. In response to an ECHR decision against the government for unduly lengthy criminal proceedings, the government enacted a

law in December that allows the undue length of a criminal proceeding to be cited as a mitigating circumstance that may reduce a sentence.

### Civil Judicial Procedures and Remedies

An independent and impartial judiciary exists for civil matters, and there is access to a court to bring lawsuits seeking damages for a human rights violation.

Violations of human rights can be pursued either criminally or, if committed by the administration in other than a criminal offense, administratively. The national ombudsman serves to protect and defend basic rights and public freedom on behalf of citizens.

#### f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The constitution prohibits such actions, and the government generally respected these prohibitions in practice.

### Section 2 Respect for Civil Liberties, Including:

#### a. Freedom of Speech and Press

The constitution provides for freedom of speech and of the press, and the government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

The independent media remained active and expressed a wide variety of views without restriction. Individuals could criticize the government publicly or privately without reprisal, and the government did not attempt to impede such criticism.

The law provides that persons who provoke discrimination, hatred, or violence against groups or associations for racist, anti-Semitic, or other references to ideology, religion or belief, family status, membership within an ethnic group or race, national origin, sex, sexual orientation, illness, or disability, may be punished with imprisonment of one to three years.

The law prohibits, subject to judicial oversight, actions including public speeches and the publication of documents that the government interprets as glorifying or

supporting terrorism. During the year the Office of the General Prosecutor filed eight cases in the courts under this law.

Unlike in previous years, there were no reports of new ETA threats against journalists. However, previous ETA threats against journalists have not been publicly recanted.

### Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the expression of views via the Internet, including by e-mail. Authorities monitored Web sites for material containing hate speech and advocating anti-Semitism. In November National Police officers arrested three members of an extreme right-wing group in Barcelona who used the Internet to spread Nazi ideology. The police seized flags, books, and clothing related to the ideology, as well as several weapons.

At year's end, the Barcelona court had several open investigations involving hate crimes on the Internet and one case against a rock group spreading neo-Nazi messages through their music. On June 16, Aitor R.E. was sentenced to two years in prison for promoting genocide through the Internet. This was the first time a sentence was issued for promoting hatred on the Internet.

There were no reports that the government monitored e-mail or Internet chat rooms.

According to International Telecommunication Union statistics for 2009, approximately 63 percent of the country's inhabitants used the Internet.

### Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

#### b. Freedom of Peaceful Assembly and Association

The constitution provides for freedom of assembly and association, and the government generally respected these rights in practice.

#### c. Freedom of Religion



For a complete description of religious freedom, see the *2010 International Religious Freedom Report* at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations, including the Spanish Committee for Assistance to Refugees, in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The law prohibits forced exile, and the government did not employ it.

Protection of Refugees

The country's laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. Potential asylum seekers were effectively able to exercise their right to petition authorities. In a 2009 report, however, the national ombudsman noted that complaints related to irregularities in the handling and reporting of some deportation cases had not declined significantly.

Asylum seekers are not automatically rejected solely because of their country of origin. All asylum petitions are reviewed individually, and there is an established appeals process available to petitioners.

In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

The Asylum and Subsidiary Protection Law provides protection for up to three years for persons who do not meet the criteria for refugee status but face dangers such as torture or the death penalty if returned to their countries of origin. The law includes gender and sexual orientation as conditions for granting asylum; makes free legal assistance available to asylum seekers; provides a single process for both

asylum and subsidiary protection (if asylum is denied, subsidiary protection will be automatically considered); contemplates family reunification for asylum seekers; allows asylum requests to be accepted at an embassy or consulate; and provides for the resettlement of refugees in neighboring countries in some cases.

In 2009 there were 2,999 asylum applications in the country. According to the Spanish Commission for Refugee Assistance, this figure represented a 33.6 percent decline from 2008 and was the lowest number of applications since 1989.

The Ministry of Foreign Affairs runs the Program for Assistance and Protection of Human Rights Defenders at Risk. Under this program, human rights defenders who face persecution and death threats can move to the country for a time period ranging from six months to two years, depending on the circumstances. During the year the country accepted 22 persons from a variety of countries into the program; for the first time, two individuals gained entry into the program on account of defending lesbian, gay, bisexual, and transsexual (LGBT) rights.

There were no reports of restrictions on refugees' access to employment, health care, housing, education, law enforcement, or judicial redress. The country does accept refugees for resettlement from third countries and provides protections with the assistance of NGOs such as the Spanish Commission for the Assistance to Refugees.

On January 29, the Council of Ministers approved a 2.9 million euros (\$3.9 million) program for 2010-2012 for the resettlement of 75 refugees in Spain. The selection of the refugees for this program will be handled by the General Directorate of Interior Policy and the General Directorate for the Integration of Immigrants.

During the year the country received 3,632 undocumented migrants by boat. This reflected a steady decline in undocumented migrants arriving in the country, from 13,000 in 2008 and 7,299 in 2009. The number of illegal immigrants who were deported to their home countries or denied entry at borders during the year was 30,163, a 20.9 percent decrease from 2009.

There were problems with the treatment of unaccompanied migrant and refugee children. On October 1, the UN Committee on the Rights of the Child released a report asking the government to improve the conditions under which unaccompanied minors are either admitted into the country or deported. With regard to the October 2009 Asylum Law that addresses special circumstances for

the protection of unaccompanied minors, the committee noted that those circumstances only apply to non-EU minors and recommended that the government extend such protection to all minors, following international standards.

The government has three emergency centers – La Esperanza, Tegueste, and Arinaga – on the Canary Islands which housed approximately 276 children. According to a June 2010 Human Rights Watch (HRW) report, these centers put children at an increased risk of violence and limited their opportunities for integration into local communities. HRW identified systemic factors that increase the risk for children in these three emergency centers: the absence of an occupancy limit for emergency centers, the lack of confidential complaints mechanisms, and insufficient monitoring and oversight. The report also noted, however, that the children in these centers now generally enjoyed access to education and vocational training opportunities outside the centers and that emergency centers facilitated children's rapid insertion into training programs through language classes starting right after their arrival.

In 2009 there were no unaccompanied children deported to their home country. In 2008 the Constitutional Court recognized children's right to defend themselves in court, irrespective of their guardians' decision.

The government also provided temporary protection to individuals who may not qualify as refugees. According to UNHCR statistics for 2009, the country granted refugee status to 179 persons. An additional 162 persons received subsidiary protection.

### Section 3    Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

#### Elections and Political Participation

In 2008 the Socialist Party won national elections that were considered free and fair; Jose Luis Rodriguez Zapatero was elected president of the Council of Ministers. Governmental power was shared between the central government and 17 regional governments.

Political parties operated without restriction or outside interference, and linguistic and cultural minorities had representation and participated in both local and national political parties.

There were 129 women in the 350-seat Congress of Deputies, 83 women in the 263-seat Senate, and nine women in the 17-member Council of Ministers.

The government did not keep statistics on the ethnic composition of the parliament, but linguistic and cultural minorities were represented. The Catalan parliament included a member of Moroccan origin. There were Muslim political parties in the city enclaves of Ceuta and Melilla in North Africa. Roma had little representation in government.

#### Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, and the government generally implemented these laws effectively. There were isolated reports of government corruption during the year.

On July 6, the president of the Popular Party in Alicante, Jose Joaquin Ripoll, and 10 other persons were arrested for extortion, influence peddling, fraud, bribery, breach of trust, and concealment. The trial had not begun by year's end.

On September 27, the trial began for nearly 100 former Marbella city officials, businessmen, real estate agents, and other defendants arrested in 2005 on charges of granting illegal building and construction permits in exchange for bribes. This was the largest corruption case ever brought to court involving city hall officials.

The constitution provides for an ombudsman who investigates claims of police abuse. In 2009 the national ombudsman filed 269 ex officio judicial complaints, up from 253 complaints in 2008. During 2009 the ombudsman network processed 22,276 complaints, 4,461 of which were related to matters of justice, defense, and internal affairs.

There were no developments reported during the year in the 2009 case involving a member of the Civil Guard who was charged with money-laundering activities and involvement with Galician drug-traffickers. The accused was also suspected of having provided documents from his post at the Spanish embassy in Morocco to third parties in an attempt to discredit a criminal judge in A Coruna. While the case was pending, the government transferred the officer to the financial department.

In December a counternarcotics and organized crime lieutenant of the Civil Guard in Malaga was arrested in a counternarcotics operation conducted by the Civil Guard's Department of Internal Affairs.

Public officials are subject to financial disclosure laws. The Ministry of Public Administration is responsible for managing and enforcing the Law of Conflicts of Interest. The government also has a code of good governance that applies to all senior government officials.

The law mandates public access to government information, and the government generally granted access to citizens and noncitizens, including foreign media.

#### Section 5 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were cooperative and responsive to their views.

The national ombudsman serves to protect and defend basic rights and public freedom on behalf of citizens. In 2009 the Ministry of Equality established the Council for the Promotion of Equal Treatment and Nondiscrimination due to Racial or Ethnic Origin.

#### Section 6 Discrimination, Societal Abuses, and Trafficking in Persons

The law prohibits discrimination based on race, gender, disability, language, or social status, and the government generally enforced it effectively.

##### Women

The law prohibits rape, including spousal rape, and the government effectively enforced the law. It also prohibits violence against women, and independent media and government agencies paid close attention to gender violence.

According to judicial statistics, during the second quarter of the year, women filed 34,256 complaints of abuse against their husbands, male partners, or former partners, an increase of 5.4 percent from the first quarter. Immigrant women

remained the group most vulnerable to gender violence: although they constituted 11.4 percent of the female population in the country, they applied for 34 percent of the 9,890 protection orders during the second quarter of the year.

During the year 71 women were murdered as a result of domestic violence, an increase from 55 in 2009.

The law establishes prison sentences of six months to a year for domestic violence, threats of violence, or violations of restraining orders, with longer sentences if serious injuries result. According to 2009 statistics from the General Counsel of the Judicial Power, 80 percent of gender-related cases resulted in a conviction.

More than 50 offices provided legal assistance to victims of domestic violence, and there were 454 shelters for battered women. A 24-hour toll-free national hotline advised battered women on finding shelter and other local assistance. As of October the hotline took calls in Spanish, French, German, Arabic, Bulgarian, Chinese, Portuguese, Romanian, and Russian. During the first six months of the year, the hotline received 32,612 calls.

As of October there were 103 specialized courts dealing exclusively with domestic violence cases, an increase from 83 in 2008.

Female genital mutilation (FGM) is prohibited. In Catalonia the law requires that a doctor examine immigrants considered to be in danger of FGM when they travel to and from their countries of origin. Parents whose children were determined to have been subjected to FGM risked losing custody. Catalan regional police had procedures to prevent FGM through the early detection of potential victims, immediate reporting of possible cases to appropriate authorities, and, when possible, preventing the travel of potential victims. Catalan regional police prevented the genital mutilation of 55 girls in 2009 and of additional 21 girls between January and September 2010.

The law prohibits sexual harassment in the workplace; however, harassment was reported to be a problem.

Couples and individuals decide freely and responsibly the number, spacing, and timing of their children and enjoy the information and means to do so free from discrimination, coercion, and violence. Obstetric and postpartum care is provided under the national health plan. According to statistics compiled by the World

Health Organization in 2009, there were approximately six maternal deaths per 100,000 live births in the country. Contraception is easily accessed, including emergency contraception, which is available without a doctor's prescription.

Under the law women enjoy the same rights as men, including rights under family law, property law, and in the judicial system. The Women's Institute worked to ensure the legal rights of women, combat economic discrimination, and integrate women into the professional workplace. The unemployment rate for women (20.6 percent) continued to be higher than for men (19.7 percent). Discriminatory wage differentials continued to exist, and women held fewer senior management positions than men. According to a June 2010 report from the National Statistics Institute, women in the country earned 21.9 percent less than men. Access to health care is a fundamental right under the constitution regardless of gender, and women had equal access to diagnosis and treatment of sexually transmitted infections, including HIV.

### Children

Citizenship is derived from one's parent. In rare cases when a child born within the country does not acquire his or her parents' nationality, the country will grant nationality.

There were reports of child abuse. According to the Ministry of Equality, approximately 800,000 children were victims of domestic violence, either as witnesses or as direct victims. During the year 15 children were murdered, four of them as a result of gender-related violence.

In February 2009 the national ombudsman issued a report on the mistreatment of children in protection centers for migrant children. Although there is no unified registry on the mistreatment of children in the country, data provided by the autonomous regions suggested that between 15 percent and 18.5 percent of children had been mistreated in the various centers. The ombudsman asserted that many of these centers violated children's rights and reported incidents of tying up children and prohibiting their attendance at school or recreation. The report indicated that many institutions practiced isolation measures and that 75 percent of the institutions administered drugs to minors to alleviate agitation. There were reports of children being forced to undress for authorities without sufficient justification. Children in detention centers complained that they were not allowed sufficient visits from family members and that calls they received were not private. After visiting 27 of the 58 centers in the country, the ombudsman pointed to a lack

of staff training and insufficient salary as key factors contributing to the alleged mistreatment.

Following the ombudsman's report, the Ministry of Education announced that it would work with the autonomous regions throughout the country to draft a common set of regulations for the centers, since enforcement is the responsibility of the regional government.

Trafficking of teenage girls for commercial sexual exploitation remained a problem. The minimum age for consensual sex in the country is 13. If deceit is used in gaining the consent of a minor under the age of 16, an individual can be charged upon parental complaint. The law specifically provides that an individual who, by use of deceit, commits sexual abuse against a person over the age of 13 but under 16 will be punished with imprisonment for one to two years or an equivalent fine. Nonconsensual sexual abuse is defined as sexual acts committed against persons under 13 years, unconscious persons, or mentally ill persons.

The law prohibits child pornography. The penal code criminalizes both using a minor "to prepare any type of pornography material" and producing, selling, distributing, displaying, or facilitating the production, sale, dissemination, or exhibition, of "any type" of child pornography by "any means." Knowingly possessing child pornography is also penalized, carrying a potential prison sentence of up to one year. The penalty for the production, sale, or distribution of pornography in which a child under 18 years of age has been involved is imprisonment from one to four years, or up to eight years if the child is under 13. During the year approximately 320 persons were arrested for crimes related to child pornography through the Internet and cell phones.

Penalties for recruiting children or persons with disabilities into prostitution is imprisonment from one to five years (previously it was one to four years); if the child is under the age of 13, the term of imprisonment is four to six years. The same sentence applies to those who seek child prostitutes. The penalty for pimping children or persons with disabilities into prostitution is imprisonment from four to six years and, if the minor is under 13, the term of imprisonment is five to 10 years. The penalty for recruiting children or persons with disabilities for child pornography is one to five years' imprisonment; if the child is under the age of 13, imprisonment is five to nine years. In addition, individuals who contact children under the age of 13 through the Internet for the purpose of sexual exploitation face imprisonment of one to three years.



The penal code criminalizes the "abuse and sexual attack of minors" under the age of 13. The penalty for sexual abuse and assault of children under the age of 13 is imprisonment from two to 15 years, depending on the nature of the crime.

The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual on compliance at [http://travel.state.gov/abduction/resources/congressreport/congressreport\\_4308.htm](http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.htm) as well as country-specific information at [http://travel.state.gov/abduction/country/country\\_3781.html](http://travel.state.gov/abduction/country/country_3781.html).

### Anti-Semitism

According to Jewish community leaders, while violence against members of the approximately 48,000-member Jewish community was rare, anti-Semitic incidents, including graffiti against Jewish institutions, continued.

On March 1, the media reported that the Israeli Embassy in Madrid had received letters from elementary school children from various public schools in Madrid accusing Israel of killing children. Israeli media accused Spanish schools of inculcating anti-Semitism.

In March a Barcelona court sentenced Pedro Varela to a 33-month prison sentence for distributing materials that justified genocide. He was also fined 2,880 euros (\$3,860) and ordered to destroy all books and objects seized in his bookstore. These included items such as a bust of Hitler, a swastika, military hats, pictures, and national socialist posters. His store sold books that justified political regimes which sought to destroy a racial group and which despised Jewish and other minorities.

On June 9, 19 members of the neo-Nazi group Blood and Honor were found guilty of illicit possession of arms and for inciting hate for racist and anti-Semitic reasons. As of year's end, they were awaiting sentencing and the prosecutor was seeking sentences that ranged from two to five years in prison.

On September 9, as part of an initiative to raise awareness and promote tolerance, the government released its first official report on anti-Semitism in the country. The report outlined findings from its survey research and highlighted the government's commitment to combat anti-Semitism.

On November 22-25, the Ministry of Foreign Affairs and Casa Sefarad-Israel, in cooperation with Holocaust memorial institutions in Germany and France and the Spanish General Counsel of Advocates, organized a seminar for 25 leading Spanish jurists concerning the legal dimensions of the Holocaust and their implications for the treatment of legal issues in the present day. The seminar included meetings with German and French experts as well as Spanish diplomats.

### Trafficking in Persons

For information on trafficking in persons, please see the Department of State's annual *Trafficking in Persons Report* at [www.state.gov/g/tip](http://www.state.gov/g/tip).

### Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, access to information technology and communication, including social media, and the provision of other state services, and the government effectively enforced these provisions. The law mandates access to buildings for persons with disabilities, and the government generally enforced these provisions; however, levels of assistance and accessibility differed between regions. The Ministry of Labor and Social Affairs is responsible for protecting the rights of persons with disabilities.

The law provides for fines for discrimination against disabled persons of up to one million euros (\$1.3 million). In July 2009 the government adopted its third plan of action for persons with disabilities. The program has a 2.5 billion euro (\$3.4 billion) budget, and the funds are used to provide tax-free pensions and job training for disabled persons, as well as to maintain services and build centers for the disabled. The plan was intended to further promote the autonomy of persons with disabilities and supplement the plan of action for women with disabilities (2005-2008) and the first national accessibility plan (2004-2012).

### National/Racial/Ethnic Minorities

There were instances of societal violence and discrimination against members of racial and ethnic minorities, and the government undertook efforts to combat the problem.

During the year the government-sponsored Network of Centers for Assisting Victims of Discrimination received 235 complaints of discrimination, of which 39 percent were from the African community, 20 percent from the Romani community, and 17 percent from the Latin American community; 24 percent of the complaints were related to discrimination based on unequal access to goods and services in both the public and private sector, 22 percent were against security forces, and 17 percent were related to discrimination in the workplace. The 2010 Raxen Report of the Movement against Intolerance estimated that there were approximately 4,000 racially motivated crimes in the country each year and over 200 xenophobic Web sites.

Groups continued to call for the justice system to adequately address the racial component of crimes. The 2010 European Commission against Racism and Intolerance (ECRI) report on the country recommended that the government improve its monitoring systems by collecting, tracking, and publishing data on acts of racism and racial discrimination.

In October the Barcelona prosecutor for hate crimes and discrimination opened a case against the Popular Party's leader in Badalona for distributing campaign materials linking ethnic Romani immigrants to crime and insecurity. The prosecutor opened a similar investigation against the leader of the anti-immigrant Platform for Catalonia political party for calling for the expulsion of all Muslims from the country.

In July the Madrid Court sentenced Roberto Alonso de la Varga to 10 years in prison for a 2007 attack on Miwa Buene, a Congolese citizen, that left him a paraplegic. The court deemed that racism was an aggravating circumstance.

Although the Romani population continued to face various forms of discrimination, there have been improvements.

According to the domestic NGO Fundacion Secretariado Gitano (FSG), Roma continued to face discrimination in access to employment, housing, and education. The Romani community, which the FSG estimated to have a population of 650,000, experienced substantially higher rates of unemployment, poverty, and illiteracy than the general population. During the first six months of the year, the Network of Centers received 47 complaints of discrimination from the Romani population. In 2009 the FSG received 111 complaints of social discrimination from the Romani population.

According to the 2010 ECRI report, some immigrant and Romani children experienced discrimination in equal access to education and the ECRI had received consistent reports of "ghetto" schools of immigrant or Romani children and discriminatory practices in admissions procedures that enabled publicly funded private schools to pick and choose students. The report noted that the government had taken positive steps to address such discrimination by enacting laws to regulate and monitor student admissions to public and publicly funded private schools.

The ECRI's 2010 report on the country stated that 85 percent of Roma did not complete high school. The FSG annual report in 2009 found that 70 percent of Roma over the age of 16 were illiterate and only 30 percent of Romani children regularly attended school. To counter this, the government agreed on 126 measures to prevent early dropouts.

According to the 2010 ECRI report on Spain, the government has addressed the social exclusion of Roma in a largely successful manner, and Romani organizations reported to the ECRI that the situation of Roma had improved considerably over the previous 10 years.

Acceder, a program aimed at expanding social inclusion through labor market integration, promoted equal opportunity for the Romani population. The program promoted labor-contract employment as an alternative to self-employment and as a vehicle for building social inclusion. Approximately 65.5 percent of the 51,173 persons served at the program's 48 employment centers since 2000 were Roma, and 50 percent were women. More than 36,047 work contracts had been signed.

According to the ECRI's 2010 report, the government's 2010-12 Plan for Roma Development, which was aimed at promoting social inclusion, nondiscrimination, and equal treatment, has an annual budget of 6.5 million euros (\$8.7 million).

During the year the government sponsored the Network of Centers for Assisting Victims of Discrimination, an initiative that consisted of eight NGOs representing a wide spectrum of racial and ethnic minorities in the country. The network provided support services to victims of discrimination in areas such as education, housing, health, and employment. Services included access to professionals for legal advice, filing police reports and lawsuits, mediation, and conciliation.

In 2008 the government adopted a law creating a human rights plan of action with 172 measures, many of which related to the abolition of racism and intolerance. Specific measures called for the adoption and implementation of a strategy to fight

racism and xenophobia, educational programs for media to combat hostile or discriminatory perceptions and stereotypes, and collaboration with public and private media on sensitization to and promotion of human rights. The government has completed several of the measures, including the release of a comprehensive report that is updated yearly, *Evolution of Racism and Xenophobia in Spain*, and the publication of the *Practical Guide for Media Professionals: Media Treatment of Immigration Issues*.

According to the ECRI's 2010 report, the country continued to develop initiatives based on the 172 measures adopted in 2008, including the creation of support resources for victims of discriminatory, racist, or xenophobic aggression, analysis of citizens' attitudes toward immigration, public awareness campaigns at regional and local levels, and training and awareness programs for police. Abdelhamid Beyuki, the Spanish member of the ECRI, stated that the government had taken significant steps to combat racism and xenophobia and to promote the integration of immigrants. During 2009-2010, the government enacted its transnational project, Living Together: European Citizenship against Racism and Xenophobia.

#### Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

The lesbian, gay, bisexual, and transgender (LGBT) community was widely accepted throughout the country. LGBT organizations were numerous, and there were no reported impediments to their operation.

From June 25 through July 4, Madrid celebrated Gay Pride, culminating in a July 3 parade in which more than one million persons participated in a secure celebration. The parade was authorized by authorities, and police provided sufficient protection to marchers.

#### Other Societal Violence or Discrimination

There were no reports of major societal violence or discrimination against persons with HIV/AIDS.

The controversy regarding official language policies continued, with some persons complaining that policies in Catalonia interfered with receiving an education in the country's majority language, Castilian Spanish. Likewise, there were instances of Catalan speakers raising concerns that the Catalan language was not equally favored.

On December 22, the Supreme Court ruled that Castilian Spanish must become a "vehicular language" or lingua franca in Catalonia's educational system. The decision involved three separate cases of Spanish-speaking parents pursuing legal action against the Catalan education system. The ruling came during the transition to the new Catalan government. Both the outgoing and incoming administrations defended the existing education model and maintained that the decision pertained to three individual cases and that no changes were needed in Catalan language policies. Catalan leaders in favor of the existing language-immersion model claimed that students could become equally proficient in Catalan and Spanish.

On September 14, the Catalan parliament approved a decree that will require new full-time professors at public and private universities to take a language examination before they are hired to prove that they have "C-level" (medium-high oral and writing communication level) proficiency in Catalan. The decree permits universities to exempt full-time research staff or professors teaching in a foreign language from the requirement. To prevent the loss of talented professors, universities can, in some cases, delay the test for up to two years after the actual date of hire. Some universities and educators criticized the decree as discriminatory, especially if the language of instruction is not Catalan.

## Section 7 Worker Rights

### a. The Right of Association

The law allows workers, including foreign and migrant workers, to form and join independent unions of their choice without previous authorization or excessive requirements, and workers did so in practice. However, military personnel and national police forces do not have the right to join unions, and judges, magistrates, and prosecutors are not free to join the union of their choice.

Approximately 17.4 percent of the workforce was unionized. The law allows unions to conduct their activities without interference, and the government protected this right in practice. The law provides for the right to strike, and workers exercised this right by conducting legal strikes. Any striking union must respect minimum service requirements negotiated with the respective employer.

### b. The Right to Organize and Bargain Collectively

The law provides for collective bargaining, including for all workers in the public sector except military personnel, and it was freely practiced. Public sector collective bargaining includes salaries and employment levels, but the government retained the right to set these if negotiations failed. Collective bargaining agreements were widespread in both the public and private sectors, covering approximately 70 percent of the workforce.

Employers frequently hired new employees under temporary work contracts. The International Trade Union Confederation (ITUC) stated that although in theory workers on temporary contracts were covered by collective bargaining agreements, in practice more and more workers were individually negotiating directly with employers and managers and undermining the collective bargaining process. The ITUC further noted that 63 percent of temporary workers were immigrants.

The law prohibits discrimination by employers against trade union members and organizers; however, unions contended that employers practiced discrimination in many cases by refusing to renew the temporary contracts of workers engaging in union organizing.

There are no special laws or exemptions from regular labor laws in the three special economic zones in the Canary Islands, Ceuta, and Melilla.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children; however, there were reports that children were trafficked for forced begging. Men were also trafficked for forced labor, mainly in agriculture and construction. Migrant women and children from Romania and Bulgaria remained particularly vulnerable to labor exploitation in agriculture and forced begging. Also see the Department of State's annual *Trafficking in Persons Report* at [www.state.gov/g/tip](http://www.state.gov/g/tip).

d. Prohibition of Child Labor and Minimum Age for Employment

There are laws and policies to protect children from exploitation in the workplace, and these laws were generally enforced. However, there were reports that children were trafficked for forced begging. Also see the Department of State's annual *Trafficking in Persons Report* at [www.state.gov/g/tip](http://www.state.gov/g/tip).

The statutory minimum age for the employment of children is 16. The law also prohibits the employment of persons under the age of 18 at night, for overtime work, or in sectors considered hazardous. The Ministry of Labor and Social Affairs has primary responsibility for enforcement of the minimum age law and enforced it effectively in major industries and the service sector. The ministry had difficulty enforcing the law on small farms and in family-owned businesses, where some child labor persisted. Laws prohibiting child labor were enforced effectively in the special economic zones.

e. Acceptable Conditions of Work

The national minimum wage of 633.30 euros (\$849) per month generally did not provide a decent standard of living for a worker and family. The Ministry of Labor and Social Affairs effectively enforced the minimum wage.

The law provides for a 40-hour workweek, with an unbroken rest period of 36 hours after each 40 hours worked. By law overtime is restricted to 80 hours per year unless collective bargaining establishes a different level. Premium pay is required for overtime.

The National Institute of Safety and Health in the Ministry of Labor and Social Affairs has technical responsibility for developing labor standards, and the Inspectorate of Labor has responsibility for enforcing the law through inspections and judicial action when infractions are found. Unions criticized the government for devoting insufficient resources to inspection and enforcement. Workers have the right to remove themselves from situations that endanger health or safety without jeopardy to their employment, and authorities effectively enforced this right; however, employees with short-term labor contracts generally did not understand that they had such legal protections.