

SPAIN 2012 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

The Kingdom of Spain 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 usually is named to head the government as president of the Council of Ministers, the equivalent of prime minister. Regional elections held during the year in some autonomous communities were considered free and fair, as were national elections held in November 2011. Security forces reported to civilian authorities.

The most significant human rights problems during the year included reports of mistreatment of detainees and prisoners by police and racial profiling by security forces, as well as violence against women and children.

Other problems included some reports that security forces used excessive force against demonstrators as well as reports of delayed access at times by detainees to legal assistance. There were numerous reports of government corruption, particularly at the provincial and municipal levels. There were reports that some persons, especially from Africa, experienced discrimination in applying for asylum and were subject to summary deportation. Jewish groups reported isolated acts of anti-Semitic vandalism and hate speech. Trafficking in persons and social discrimination against Muslims and other minorities, particularly Roma, were reported.

The government generally took steps to prosecute officials, both in the security services and elsewhere in the government, who committed abuses. There were no reports of impunity.

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.

b. Disappearance

There were no reports of politically motivated disappearances or politically motivated abductions or kidnappings.

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

The constitution and laws prohibit such practices, and the government normally respected this prohibition. There were reports of police mistreatment; some reports were dismissed by the courts.

In 2011, the last year for which data was available, the General Police Directorate reported 13 cases brought against the Spanish National Police for mistreatment of detainees, with six cases dismissed and seven cases pending judicial resolution. The same report cited 23 claims of mistreatment by members of the Civil Guard, none against the Basque Country regional police force, and according to the regional Department of Interior of Catalonia, one against that region's police.

On March 1, a court dismissed a lawsuit against the director of the Catalan police and other security officials for using force to break up a demonstration in Barcelona in May 2011. The court found police use of force had been "reasonably proportionate."

On October 23, the Council of Ministers commuted the sentences of four Catalan regional police officers, three of whom had been convicted in 2008 of torturing Lucian Paduraru, and one of whom was convicted of lesser charges. The officers were originally sentenced to more than six years in prison, a sentence that in February was reduced to two years. After a Barcelona court ordered the four to serve the sentence, the Council of Ministers reduced the officers' punishment to a fine without prison time. A group of 200 judges wrote a public letter denouncing the decision to commute the sentences.

In light of May 2011 protests in Barcelona and at the proposal of the regional ombudsman, the regional police created a "mediation group" to equip police to respond to protests better without resorting to force. The group formally went into operation in February.

There were also concerns of excessive use of force by police during September 25 demonstrations near Congress in Madrid; as of year's end the number of complaints was not yet been made public.

The annual report of Amnesty International (AI) for the year criticized the country for the use of excessive use of force by police during demonstrations.

Prison and Detention Center Conditions

Prison and detention center conditions generally met international standards, and the government permitted visits by international monitors.

Physical Conditions: At the end of December, 68,685 persons were in prison. In 2010 the capacity of the country's prison system was 76,851 persons, with 82 prisons in the country. Women accounted for 7.6 percent of the prison population. None of the prison population was under 18 years of age; 1.6 percent was under 21 years of age.

The 2011 report by the Coordinator for the Prevention of Torture indicated that in 2010 a total of 13 persons died in police custody, 34 died in jail, and four minors died while in youth detention centers. There were 64 complaints against security forces and jail functionaries for abuse of authority, 72 fewer than in 2009. Prisoners had access to potable water, adequate heating, ventilation, and lighting.

Administration: Recordkeeping on prisoners was accurate. In many cases authorities offered alternative sentencing for nonviolent offenders, including expulsion from Spain instead of jail time to nonviolent offenders from other countries. 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. 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.

Prisoners can file complaints regarding mistreatment with the national ombudsman, who investigates complaints but does not have authority to take corrective measures directly.

Monitoring: The government generally permitted monitoring by independent nongovernmental observers, including the Coordinator for the Prevention of Torture and the Council of Europe's Committee for the Prevention of Torture (CPT), in accordance with their standard modalities. On June 19-22, the CPT conducted an ad hoc visit to evaluate progress to improve conditions at the

Barcelona Prison for Men. The report on the CPT's visit had not been released by year's end.

On June 20, the government shut down the detention center for foreign migrants in Malaga, which the country's ombudsman recommended be closed in July 2011. Nongovernmental organizations (NGOs) and regional ombudsman's offices had complained about a lack of access to the migrant detention center.

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

Police forces include the national police and the Civil Guard, both under the authority of the national Ministry of the Interior, as well as municipal police under the authority of the Catalan and the Basque Country regional governments. Civilian authorities maintained effective control over the police and Civil Guard, and the government generally has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year. All police forces operated effectively. There were isolated reports of corruption, which were handled promptly and with results.

Arrest Procedures and Treatment While in Detention

The law provides that police may apprehend suspects for probable cause or with a warrant based on sufficient evidence as determined by a judge. 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. With certain exceptions, police may not hold a suspect for more than 72 hours without a hearing. 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.

The law provides detainees the right to consult a lawyer. There were often lengthy delays, however, 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, a judge may order incommunicado or solitary detention for the entire duration of police custody. The law stipulates that terrorism suspects held incommunicado have the right to an attorney and medical care, but they are allowed neither to choose an attorney nor to 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. During the year the government generally continued to implement preventive measures to safeguard the rights of detainees held incommunicado, including the application of protocols and extensive video surveillance in detention facilities and interrogation rooms to deter mistreatment or any violations of prisoner rights. AI and Human Rights Watch condemned incommunicado detention.

Pretrial Detention: As of August 12, 148 individuals were in pretrial detention. 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. 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.

Trial Procedures

Defendants enjoy a presumption of innocence and the right to be informed promptly and in detail of the charges against them. The constitution and law provide for the right to a fair and public trial, and an independent judiciary generally enforced this right. There is a nine-person jury system. Defendants have the right to be represented by an attorney of their choice. If the defendant is indigent, the government appoints one. Defendants have access to government-held evidence, confront witnesses, and present their witnesses and evidence. They cannot be compelled to testify or confess guilt. They have the right of appeal.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

Individuals or organizations may bring civil lawsuits seeking damages for a human rights violation. The complainant may also pursue an administrative resolution. Persons may appeal court decisions involving alleged violations of the European Convention on Human Rights to the European Court of Human Rights (ECHR) once all avenues of appeal in national courts have been exhausted.

Regional Human Rights Courts Decisions

The country is subject to the jurisdiction of the ECHR, and the government generally complied with the court's orders. On July 24, in the case of *Del Rio Prada v. Spain*, the ECHR struck down the country's "Parot Doctrine" that applied sentence reductions to each individual sentence as opposed to the overall mandatory maximum sentence of 30 years stipulated by the country's law. The court instructed the government to release Ines del Rio Prada, a convicted Basque Fatherland and Liberty (ETA) terrorist, and to pay del Rio 30,000 euros (\$39,600) in nonpecuniary damage and 1,500 euros (\$1,980) for costs and expenses. The government appealed the ruling on October 4, and the ECHR accepted the appeal on October 23.

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

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

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

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

Freedom of Speech: 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 16 cases in the courts under this law.

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 for one to three years. On February 16, the Supreme Court confirmed the dissolution of the neo-Nazi group Hammerskin-Spain, finding that its objective was to spread hate and racist violence. The court ratified the sentences previously given of 1.5 to 2.5 years of jail to 15 members of this group that the Madrid National Court had imposed in 2009. On April 13, a Sabadell court sentenced neo-Nazi Marc Mora Garcia to two years in jail for spreading ideas and doctrines justifying genocide and for promoting discrimination, hate, and violence through a Web page.

Freedom of Press: On April 26, the NGO Reporters without Borders alleged that on April 20, Pilar Velasco, a reporter for the radio station SER, was charged in a Madrid court with violating confidentiality by releasing secretly recorded video footage of a politician and with refusing to reveal how she obtained the video.

On August 7, Reporters without Borders accused the new national government of the Popular Party of removing several officials from the state broadcaster RTVE for political reasons. In national and regional public television and radio stations, politically appointed boards determine editorial policy. However, privately owned stations enjoy much higher ratings in all markets.

Nongovernmental Impact: Unlike in previous years, there were no reports of new ETA threats against journalists. However, Reporters without Borders reported in May that freedom of speech was challenged in the country because the terrorist organization ETA had not stopped harassing journalists, especially those living and working in the Basque Country. As of January, 19 journalists in the Basque Country and other areas had to live and work under police protection.

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms without appropriate legal authority. An estimated 68 percent of the population used the Internet. Authorities monitored Web sites for material containing hate speech and advocating anti-Semitism. A special 2011 Raxen report by the NGO Movement against Intolerance estimated that more than 1,000 online sites in the country (Web sites, blogs, forums, networks, and channels) promoted xenophobia and intolerance.

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.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/j/drl/irf/rpt.

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

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights. The government cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations, including the Spanish Commission for Refugee Assistance (CEAR), in providing protection and assistance to refugees, asylum seekers, stateless persons, and other persons of concern.

Protection of Refugees

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. The law permits any foreigner who was a victim of gender-based violence in the country to file a complaint at a police station without fear of deportation, even if that individual should be in the country illegally.

Potential asylum seekers were able effectively to exercise their right to petition authorities. A 2011 report by the national ombudsman noted complaints in the procedures for the repatriation and transfer of foreign nationals by sea and air, especially in regards to the physical containment techniques, concerns that legislation subsequently addressed.

In collaboration with Morocco, on September 4, the government transferred to Moroccan authorities 73 undocumented immigrants from the island of Tierra in the archipelago of Al Hoceima. In September the European Commission asked for

details from authorities to analyze whether or not the government breached international law, which prevents the “mass expulsions [of immigrants] regardless of the circumstances of individual persons and their options for asylum.” The CEAR and other NGOs claimed the government had not followed the law’s procedure by handing the immigrants over to Morocco without sufficiently examining options of asylum. The ombudsman asked the government to specify the legislation applied in the immigrants’ expulsion.

The Ministry of Foreign Affairs and Cooperation ran the Program for Assistance and Protection of Human Rights Defenders at Risk. Under this program, human rights defenders who faced oppression and death threats could move to the country for a period ranging from six months to two years, depending on the circumstances. The ministry received 10 such defenders during the year and an additional 16 in 2011. The majority of participants came from Colombia, Honduras, and Guatemala.

Safe Country of Origin/Transit: Asylum seekers are not automatically rejected solely because of their country of origin. All asylum petitions are reviewed individually, and an established appeals process is available to petitioners. Under EU law the country considers all other countries in the Schengen area, the EU, and the United States to be safe countries of origin. Asylum seekers who enter the country through these countries are liable for return. In January the government suspended returns of asylum seekers to Greece in the wake of an ECHR decision condemning conditions for refugees in that country.

Refoulement: In practice the government generally 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.

Durable Solutions: On December 28, the Council of Ministers announced that during 2013 and 2014 it would accept up to 30 refugees for resettlement. The country accepted refugees for resettlement from foreign countries and provided protections with the assistance of NGOs such as the CEAR.

Temporary Protection: The 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. In 2011, the most recent year for which data is available, the government granted subsidiary protection to 650 persons and humanitarian protection to another 20.

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 through periodic, free, and fair elections based on universal suffrage.

Elections and Political Participation

Recent Elections: National elections in November 2011 were considered free and fair, as were regional elections during the year in Andalusia, Asturias, Galicia, the Basque Country, and Catalonia.

Participation of Women and Minorities: There were 138 women in the 350-seat Congress of Deputies, 91 women in the 266-seat Senate, and four women in the 13-member Council of Ministers. There were seven women on the 21-member General Council of the Judiciary.

The government did not keep statistics on the ethnic composition of parliament, but linguistic and cultural minorities were represented. There were Muslim political parties in the city enclaves of Ceuta and Melilla in North Africa. The Roma had no elected representation in the government.

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials, and the government generally implemented these laws effectively. In its National Integrity System report published in July, Transparency International recommended improved rules regarding party financing and better oversight of political parties. There were numerous reports of government corruption during the year.

According to the Attorney General's Office, there were investigations into 730 cases of political corruption across the country, including 264 cases involving the Spanish Socialist Workers' Party (PSOE) and 200 involving the People's Party. In 72 cases, public officials without apparent political affiliation were the objects of investigation. Other cases came from smaller parties.

The constitution provides for an ombudsman who investigates claims of police abuse. In 2011 the national ombudsman filed 506 ex officio judicial complaints,

an 8.6 percent increase from complaints in 2010. In 2011 the Ombudsman's Office processed 24,381 complaints, a decrease from 34,674 complaints in 2010.

On June 21, Supreme Court President Carlos Divar resigned. A member of the General Council of the Judiciary had accused him of making 20 essentially personal trips around the country at the expense of 28,185 euros (\$37,204) in taxpayer money. Additionally, the media reported his actual activities on these trips were inconsistent with his official itineraries. The Supreme Court rejected a complaint of fraud, misappropriation, and embezzlement allegations, but Divar resigned due to mounting opposition and pressure by other judges and professional legal associations.

The regional government of Andalusia held hearings on the misuse of "ERE" funds meant to pay early retirement compensation at companies that implement labor-adjustment plans involving substantial layoffs. Continuing investigations revealed 196 beneficiaries ineligible for funds between 2001 and 2010, and another 45 were under investigation. Some individuals applied fraudulently to the benefit fund, while others were granted the money through "administrative mistakes" by authorized individuals in the government. Nine members of the Spanish Socialist Workers' Party, which has governed the region since 1980, were also under investigation at the end of the year. The fraud cost the regional government 17 million euros (\$22 million) in wrongly assigned funds. The government also reviewed 106 million euros (\$140 million) given to companies, local authorities, private foundations, and universities through 191 direct subsidies.

Public officials are subject to financial disclosure laws. The government also has a code of good governance that applies to all senior government officials. The Ministry of Finance and Public Administrations is responsible for managing and enforcing the law regarding conflicts of interest.

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.

UN and Other International Bodies: On May 23, the United Nations Committee against Torture rejected a complaint filed by convicted ETA terrorist Orkatz Gallastegi that police tortured him while he was held incommunicado in 2002. The committee found no credible evidence of torture against Gallastegi but stated that competent authorities failed to conduct a sufficiently prompt and impartial investigation of his claims.

On June 19-22, the CPT made a follow-up visit to the Barcelona Prison for Men. At the end of the year the report of the visit was not yet published.

Government Human Rights Bodies: The national ombudsman serves to protect and defend basic rights and public freedom on behalf of citizens. The ombudsman was generally effective and had the public's trust. In 2011, the latest year for which data are available, the ombudsman initiated 24,381 investigations and concluded 5,320. She did not pursue 12,860 investigations. In addition, 12 of the country's 17 autonomous communities have an ombudsman's office to handle cases at the regional level.

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

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

Women

Rape and Domestic Violence: The law prohibits rape, including spousal rape, and the government generally enforced the law effectively. It also prohibits violence against women, and independent media and government agencies generally paid close attention to gender violence. The penalty for rape is six to 12 years in prison. The law sets 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 the government's Delegate for Gender Violence, as of September 12, 33 women were killed by their partner or former partner during the year. The delegate noted that only six of the women killed had reported abuse prior to their death. According to the Special Prosecutor against Gender Violence, 40 of 46 domestic violence cases (85 percent) resulted in conviction in 2011. The

Observatory against Domestic and Gender Violence reported 134,002 complaints of gender-based violence in 2011. The complaints resulted in 52,294 judicial rulings, 31,403 of which were convictions. The observatory cautioned that immigrant women and women over the age of 56 remained vulnerable groups to gender violence.

A report by the governmental polling group Sociological Research Center in February showed that 10.9 percent of women (2.15 million) suffered mistreatment at a certain point in their lives, and 600,000 sometime during the year. Of the victims, 72.6 percent never reported the mistreatment, and 25 percent of those who did withdrew their complaint. During the year 800,000 children (10 percent of the child population) witnessed mistreatment suffered by their mothers. Additionally, 517,000 children were victims of mistreatment within the context of gender violence.

In November 2011 the secretary of state for equality launched a digital platform where units working on gender violence could share information, best practices, and documents. More than 50 offices provided legal assistance to victims of domestic violence, and there were more than 454 shelters for battered women. A 24-hour toll-free national hotline advised battered women on finding shelter and other local assistance. The hotline took calls in Spanish, French, German, Arabic, Bulgarian, Chinese, Portuguese, Romanian, and Russian. As of November, this hotline had handled 51,304 telephone calls.

In April the Ministry of Health, Social Services, and Equality reached an agreement with approximately 20 multinational companies for the creation of a program called “Businesses in favor of a society free of gender violence” by which the companies include messages against gender violence in their products, at no cost to the government.

In May the Ministry of Health, Social Services, and Equality distributed five million euros (\$6.6 million) among the country’s autonomous regions to develop assistance plans to victims of gender violence. It also made the resources from the ministry’s “Do not skip the signs of abuse, choose to live” campaign available to regional and local entities.

Female Genital Mutilation/Cutting (FGM/C): FGM/C is prohibited, and the law authorizes courts to prosecute cases even if the crime occurred overseas. Approximately 14,000 girls in the country were at risk of FGM/C, according to the

Wassu-UAB Foundation, the only NGO in the country dedicated to the study and prevention of FGM/C.

In Catalonia the law requires that a doctor examine immigrants considered to be in danger of FGM/C when they travel to and from their countries of origin. Parents whose children are determined to have been subjected to FGM/C risk losing custody. Catalan regional police had procedures to prevent FGM/C through the early detection of potential victims, immediate reporting of possible cases to appropriate authorities, and when possible, preventing the travel of potential victims. By year's end the Catalan police registered 26 cases representing a total of 31 women who were either treated for or prevented from being victims of FGM/C.

In February the Catalan government established an interdepartmental working group to combat FGM/C.

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

Reproductive Rights: Couples and individuals decide freely the number, spacing, and timing of their children and enjoy the information and means to do so free from discrimination, coercion, and violence.

Discrimination: Under the law women enjoy the same rights as men, including rights under family law, property law, labor and inheritance law, and in the judicial system. Discriminatory wage differentials continued to exist, and women held fewer senior management positions than men. According to data from the Ministry of Health, Social Services, and Equality, women earned 22 percent less than men. The Women's Institute within the Ministry of Health, Social Services, and Equality conducted and published studies on women's problems and processed complaints of gender-based discrimination.

Children

Birth Registration: Citizenship is derived from one's parents. In cases when a child born in the country does not acquire the parents' nationality, the country will grant nationality.

Child Abuse: According to the Ministry of Health, Social Services, and Equality, approximately 800,000 children were victims of domestic violence, either as

witnesses or as direct victims. As of July the Observatory against Gender Violence registered the killing of three children.

Child Marriage: The minimum age of marriage is 14 years. In 2011, 206 persons under the age of 18 married (153 girls and 53 boys), and 35 of them (19 girls and 16 boys) were under 15. These marriages were 0.06 percent of all marriages that year.

Sexual Exploitation of Children: The law 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. 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 minimum age for consensual sex in the country is 13. If deceit is used to gain the consent of a minor under the age of 16, an individual can be charged upon parental complaint. The law specifically provides for imprisonment for one to two years or an equivalent fine for an individual who, by use of deceit, commits sexual abuse against a person over the age of 13 but under 16. Nonconsensual sexual abuse is defined as sexual acts committed against persons under 13 years, unconscious persons, or mentally ill persons, and the law provides from four to six years in jail.

Penalties for recruiting children or persons with disabilities into prostitution is imprisonment from one to five 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 to victimize children through prostitution. The penalty for pimping children or persons with disabilities into prostitution is imprisonment from four to six years; if the minor is under 13, the term of imprisonment is five to 10 years.

Trafficking of teenage girls for commercial sexual exploitation remained a problem. Although trafficked women traditionally have been 18 to 25 years of age, 15 of the 1,082 victims identified by the government in 2011 were minors.

The law prohibits child pornography. The penal code criminalizes both using a minor “to prepare any type of pornographic material” and producing, selling, distributing, displaying, or facilitating the production, sale, dissemination, or exhibition of “any type” of child pornography by “any means.” 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. 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.

In a February operation against online child pornography code-named KOBEN, National Police arrested 57 persons in 21 provinces. The operation was made possible by SnuWatch software, which enabled detection when users shared pornographic files. Security forces seized more than 240 hard drives.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information see the country-specific information at www.travel.state.gov/abduction/country/country_3781.html.

Anti-Semitism

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

In its 2011 report the Movement against Intolerance noted there were 400 anti-Semitic incidents per year in the country. The Observatory of Anti-Semitism in Spain meanwhile reported 30 anti-Semitic events in 2011.

On January 5, the Simon Wiesenthal Center urged the government to stop funding a Palestinian children's magazine, *Zayzafuna*, which it asserted glorified Hitler.

In February, a Barcelona court sentenced Luis Antonio Garcia Rodriguez, the editor of the magazine *Intemperie* (Outdoor) and the Web page "n-europa.org," to one year in jail for "spreading genocidal ideas." The judge also ordered the Web page shut down. According to the ruling the magazine "justifies the Nazi Holocaust during World War II, with humiliating references to Jewish people." The judge ruled that the magazine encouraged "discrimination, exclusion, and elimination of other racial groups."

On February 16, the Supreme Court confirmed the dissolution of the neo-Nazi group Hammerskin-Spain, a group whose objective was to spread hate and racist violence. The court ratified the sentences of one-and-a-half to two-and-a-half years in prison handed down to 15 members of the group in 2009 by the Madrid National Court.

In April a court in Sabadell, Catalonia, sentenced neo-Nazi member Marc Mora Garcia to two years in jail for spreading ideas and doctrines justifying genocide and for promoting discrimination, hate, and violence through a Web page.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

Persons with Disabilities

The law prohibits, with fines of up to one million euros (\$1.3 million), discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, access to air travel and other transportation, access to information technology and communication, including social media, and the provision of other state services. The government generally enforced these provisions effectively. 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 Employment and Social Security is responsible for protecting the rights of persons with disabilities. On February 15, the minister of health, social services, and equality required companies with more than 50 workers to reserve 2 percent of their jobs for persons with some kind of disability. Children with disabilities attended school, and there were no patterns of abuse in educational or mental health facilities.

National/Racial/Ethnic Minorities

In its 2011 report, the NGO Movement against Intolerance reported 4,000 racist incidents per year in the country. The government generally undertook efforts to combat the problem.

During 2010 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. Of the complaints, 24 percent were related to discrimination based on unequal access to goods and services in both the public and private sectors, 22 percent were against security forces, and 17 percent were related to discrimination in the workplace. The 2010 Raxen Report by the Movement against Intolerance estimated there were approximately 4,000 racially motivated crimes in the country each year as well as more than 200 xenophobic Web sites. The Office of the Ombudsman reported 48 complaints of racism and xenophobia in 2010.

Since 2010 the ombudsman investigated more than 140 complaints that police set up “identification checks on a routine basis in public places for the sole purpose of locating aliens who are not legally residing in Spain.” Additionally, a November report by the grassroots organization Neighborhood Brigades for Human Rights Observation collected via Twitter 1,144 complaints of racially motivated police checks in Madrid from the period May 10, 2011, to November 10, 2012. In May the General Directorate of the Spanish National Police instructed security forces to end such activity. The Neighborhood Brigades for Human Rights Observation report cited 225 complaints after the instruction was issued.

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 number 650,000, experienced substantially higher rates of unemployment, poverty, and illiteracy than the general population. In 2011 the FSG reported 115 cases of discrimination against Roma, of which 30 percent involved discriminatory portrayals of Roma in the media and online.

According to a report released on February 27 by the Council of Europe’s human rights commissioner, Thomas Hammarberg, the country’s Romani population continued to face discrimination in the labor market and the justice system. Roma also faced higher rates of infant mortality than their Spanish counterparts. Hammarberg noted improvements in police accountability during stop-and-search activities and integrated housing policies for Roma, which he attributed to the country’s policies of “explicit, but not exclusive targeting” of Roma. The commissioner stated that 47 percent of Roma experienced discrimination in the labor market.

On March 2, the government approved the National Roma Integration Strategy with the goal of improvement in four key areas: education, employment, housing,

and health. In July the Ministry of Employment and Social Security allotted 41 million euros (\$54 million) to boost labor integration of the Romani community. The European Commission positively assessed the government's national integration strategy as a promising platform for improvements.

Politicians known for their hard-line stances against immigration gained ground in Catalonia's municipal elections in May. Xavier Garcia Albiol of the Popular Party of Catalonia became the new mayor of Badalona, a suburb of Barcelona and the third-largest city by population in Catalonia, in part due to his linking immigrants from Romania and other countries to crime and promising a tougher stance on illegal immigration. As a result of a 2010 campaign flyer linking immigrants to crime that stated, "We don't want Roma," Albiol was charged with inciting racist hate. The court dismissed the case on the basis of the right to freedom of expression. The NGO SOS Racism of Catalonia and the Barcelona hate crimes prosecutor appealed this decision, and the appeals court of Barcelona accepted the appeal. As of December the case awaited a hearing.

In April the Supreme Court confirmed the suspension of seven articles of Barcelona's regulations on the use of Catalan in the city hall that required all public documents and any oral communications to be presented in Catalan.

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. On June 28, the regional government of the Basque Country approved a law of no discrimination for gender identity and of acknowledgment of the rights of transgender individuals. Discrimination in employment is banned. An anti-LGBT hate element can be considered an aggravating circumstance in crimes.

Other Societal Violence or Discrimination

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

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law allows workers, including foreign and migrant workers, to form and join independent unions of their choice without previous authorization or excessive requirements. 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. The law allows unions to conduct their activities without interference.

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. The law prohibits antiunion discrimination and prohibits discrimination based on union activity.

The law provides for collective bargaining, including for all workers in the public sector except military personnel. Public sector collective bargaining includes salaries and employment levels, but the government retained the right to set these if negotiations failed. The government effectively enforced applicable laws and procedures were not subject to lengthy delays or appeals.

Workers freely organized and joined unions of their choice in practice. The two major labor confederations, the General Union of Workers (UGT) and the Trade Union Confederation of Workers' Commissions (CCOO), were independent entities but had historical ties with the PSOE and the Spanish United Left Party (IU), respectively. The government generally did not interfere in union functioning. On occasion employers used the minimum service requirements to undermine planned strikes and ensure services in critical areas such as transportation or health services. Collective bargaining agreements were widespread in both the public and private sectors, covering approximately 80 percent of the workforce as of the end of the year.

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.

b. 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. Unaccompanied children remained particularly vulnerable to labor exploitation in

sex trafficking and forced begging. Men were also trafficked for forced labor, mainly in domestic service, agriculture, construction, and tourism.

Also see the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

c. 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 the sex trade and forced begging.

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 Employment and Social Security 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. In 2011, the most recent year for which data is available, the Ministry of Employment and Social Security detected 19 violations related to child labor, affecting a total of 24 minors.

d. Acceptable Conditions of Work

The national minimum wage was 641.40 euros (\$846.65) per month. The Ministry of Employment and Social Security effectively enforced the minimum wage. For a family of two adults and two children, the poverty level was set at 15,820 euros (\$20,882) per year. The average income per household in 2010 was 24,890 euros (\$32,855).

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 law provides for 22 annual vacation days and 14 federal holidays.

The National Institute of Safety and Health in the Ministry of Employment and Social Security has technical responsibility for developing occupational safety and health standards, and the Inspectorate of Labor has responsibility for enforcing the

law through inspections and judicial action when infractions are found. As of August 2011 there were 1,704 labor inspectors in the country. Unions criticized the government for devoting insufficient resources to inspection and enforcement. The informal economy was estimated to employ approximately 500,000 persons. Before Royal Decree 1620/2011 went into effect on January 1, 321,190 of the estimated 700,000 total domestic employees were registered with the social security system. By May, 53,021 of the previously registered still had not been registered under the new system. The remaining share of the estimated total remained outside the formal economy.