

# SPAIN 2013 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. Observers considered national elections held in November 2011 free and fair. Security forces reported to civilian authorities. Authorities maintained effective control over the security forces. There were reports that security forces committed some human rights abuses.

The most significant human rights problems during the year included reports of mistreatment of detainees and prisoners by police, charges of corruption by government officials, and violence against women and children.

Other problems included overcrowding in some prisons and detention centers, the circulation of anti-Semitic and other hate speech on the internet, sexual harassment, the trafficking of women for sexual exploitation, acts of anti-Semitic vandalism, and societal discrimination against Muslims and ethnic minorities, including the Roma.

The government generally took steps to prosecute officials, both in the security services and elsewhere in the government, who committed abuses. There were some instances where officials engaged in corruption and created the impression 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. Each security force has an internal affairs department that investigates killings and evaluates whether they occurred in the line of duty or were otherwise justifiable.

#### **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; courts dismissed some of the reports.

The ombudsman reported 32 complaints of mistreatment by police forces in 2012, of which 22 were accepted pending judicial resolution. According to the regional Department of Interior of Catalonia, in 2012 there was one claim of mistreatment against the Mossos d'Esquadra regional police force.

In May the Council of Europe's Committee for the Prevention of Torture (CPT) released a report with the result of its trips to the country in 2011 and 2012. The report included complaints from 10 incommunicado inmates who accused the Civil Guard of mistreatment, such as kicking them or covering their heads with bags or hoods. The CPT also encouraged the government to investigate independently the methods used by the Civil Guard during interrogation and detention and asked the government to prohibit hooding persons in police custody.

In June the provincial court of Barcelona sentenced six prison officials to terms ranging from four months to three-and-one-half years in prison for crimes of torture, assault, and humiliations to inmates at the Quatre Camins detention facility during a prison revolt in 2004.

In May the UN Human Rights Committee also found that the government violated the International Covenant on Civil and Political Rights due to the lack of an effective investigation into the allegations of torture and other forms of mistreatment made by Maria Cruz Achabal Puertas, whom the Guardia Civil in Madrid held incommunicado in 1996.

### **Prison and Detention Center Conditions**

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

Physical Conditions: As of August, 68,092 persons were in prison. During the year the capacity of the country's prison system was 76,851 persons with 83 prisons in the country. The CPT delegation criticized especially the overcrowding in the Barcelona Prison for Men (La Modelo). Women accounted for 7.6 percent of the prison population. No prisoner was under 18 years of age; 1.3 percent were under 21 years of age.

The 2012 report by the nongovernmental organization (NGO) Coordinator for the Prevention of Torture indicated that in 2012 a total of 64 persons died in police custody, 34 of them died in jail, and two minors died while in youth detention centers. Prisoners had access to potable water, adequate heating, ventilation, and lighting.

Catalonia's regional ombudsman noted in its Catalan Prevention of Torture Report 19 complaints of human rights violations at the region's Brian-2 detention facility in 2012.

Administration: Recordkeeping on prisoners was accurate. In many cases authorities offered alternative sentencing for nonviolent offenders, including expulsion from the country instead of jail time to nonviolent offenders from other countries. Prisoners can file complaints regarding mistreatment with the national ombudsman, who investigates complaints but does not have authority to take corrective measures directly. Prisoners and detainees had reasonable access to visitors and could observe their religious practices. 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.

Independent Monitoring: The government generally permitted monitoring by independent nongovernmental observers, including the Coordinator for the Prevention of Torture and the CPT, in accordance with their standard modalities. In June 2012 the CPT conducted an ad hoc visit to evaluate progress in improving conditions at the Barcelona Prison for Men (La Modelo). The CPT recommended in its review released on April 30 that prison officials reduce the occupancy rate of the cells in order to guarantee 43 square feet per person at the immigrant detention center in Aluche, revise the food provided in prison centers, and ensure access to hygiene articles. The report also expressed concern over detention at La Modelo Prison and authorities' use of restraint on prisoners. It recommended prison

facilities provide psychological and psychiatric attention to inmates and extend visiting times.

Improvements: In 2012 the government closed the El Fondillo youth detention center following a recommendation of the national ombudsman first made in 2008.

#### **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. Although there were no reports of impunity involving the security forces during the year, the Council of Europe's commissioner for human rights noted that judges frequently dismissed allegations of mistreatment by police and that reportedly few investigations into mistreatment resulted in convictions. All police forces operated effectively. There were isolated reports of corruption, which authorities handled promptly and with results.

#### **Arrest Procedures and Treatment of Detainees**

The law provides that police may apprehend suspects for probable cause or with a warrant based on sufficient evidence as determined by a judge. Authorities generally informed detainees promptly 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, with the authorization of a judge, to detain persons for up to five days prior to arraignment. 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 it allowed them 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 continued to conduct extensive video surveillance in detention facilities and interrogation rooms to deter mistreatment or any violations of prisoner rights. Amnesty International and Human Rights Watch condemned incommunicado detention.

Pretrial Detention: As of August, 9,875 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**

The constitution and law provide for the right to a fair and public trial, and the judiciary generally enforced this right. Defendants enjoy a presumption of innocence and the right to be informed promptly and in detail of the charges against them. Trials are held without undue delay. 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 an attorney. Defendants and their attorneys have adequate time and facilities to prepare a defense, 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. These rights apply to all defendants without discrimination.

#### **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) after they exhaust all avenues of appeal in national courts.

### **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. In March the ECHR ordered the government to compensate Pedro Valera with 13,000 euros (\$17,500) for not giving him the right to a fair trial within a reasonable timeframe. In 1998 a court found Valera guilty of justifying genocide, incitement to hatred, and racial violence, because of books and pamphlets he sold in his bookstore.

In October the ECHR ruled that the country must release and pay 30,000 euros (\$40,500) in compensation to Ines del Rio Prada, a member of Basque Fatherland and Liberty (ETA) convicted of taking part in 24 killings carried out by the Basque terrorist group. The court ruled that the government violated Del Rio's right to liberty and equality after it used an adjustment to sentencing guidelines that applied reductions to each of her individual sentences rather than against the overall 30-year statutory maximum sentence allowed under the country's law. The government stated it would comply with the ECHR decision, and officials released Del Rio from prison shortly after the ruling. In total, the government released 60 prisoners – 36 of them ETA members – after the ECHR ruling.

#### **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 through October, the Office of the General Prosecutor opened 16 investigations under the law, compared with 28 cases in 2012. 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.

Press Freedoms: In April prosecutors asked for jail sentences of up to 14 years for four members of the neo-Nazi gang “White Rebels” for hate and discrimination crimes. Prosecutors charged Ricardo F.M. and David M.L. with spreading racist ideas through the webpage [whiterebelbcn.wordpress.com](http://whiterebelbcn.wordpress.com), while they charged Lyudmil V.V. and Sandra M.D. with attacking a former member of the gang.

Libel Laws/National Security: In November 2012 Reporters without Borders criticized a Barcelona court’s decision to fine Marta Sibina and Albano Dante, journalists and editors of the magazine *CafeAmbLlet*, 10,000 euros (\$13,500) for defamation after they accused the health advisor of the government of Catalonia of “corruption and robbery.”

Nongovernmental Impact: Unlike in previous years, there were no reports of new ETA threats against journalists.

## **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 websites for material containing hate speech and advocating anti-Semitism. A special 2012 Raxen report by the NGO Movement against Intolerance estimated that more than 1,000 online sites in the country (websites, 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**

## **Freedom of Assembly**

The constitution provides for freedom of assembly and association, and the government usually respected these rights. On October 9, the Council of Europe's commissioner for human rights reported receiving 230 complaints of administrative inquiries by the central government delegate in Madrid against demonstrators between January and April. According to information provided to the commissioner, demonstrators faced fines ranging from 300 euros (\$405) for participants to 1,500 euros (\$2,025) for organizers in cases of demonstrations that were not notified to authorities, or were notified after the deadline of 10 days prescribed by the law for any demonstration of more than 20 persons.

## **Freedom of Association**

The constitution provides for freedom of 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](http://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 (UNHCR) 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 or of trafficking in persons in the country to file a complaint at a police station without



fear of deportation, even if that individual is in the country illegally. The UNHCR reported 2,790 asylum seekers and 4,510 refugees were in the country as of December 2012.

Potential asylum seekers were able effectively to exercise their right to petition authorities. In May the Supreme Court obliged the Ministry of Interior to accept temporarily the asylum petition presented in January 2011 by a Saharawi person who claimed that he was a victim of repression by the Moroccan police. The court found the government ignored information from the UNHCR that confirmed the person's origin and the events that took place in Gdeim Izig protest camp. The Ministry of Interior reported that the country had received 3,216 asylum requests through August, an 89.8 percent increase from the previous year. The ministry stated asylum seekers from Syria and Mali formed the majority of the increase.

Under the Program for Assistance and Protection of Human Rights Defenders at Risk of the Ministry of Foreign Affairs and Cooperation, 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, following 10 in 2012 and 16 in 2011. The participants came from Colombia, Sierra Leone, and Mexico.

Safe Country of Origin/Transit: Authorities do not automatically reject asylum seekers solely because of their country of origin. They review all asylum petitions 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 to the country of first entry into the Schengen area. The government's suspension of returns of asylum seekers to Greece in the wake of an ECHR decision condemning conditions for refugees in that country remains in place.

Durable Solutions: In December 2012 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.

### **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: Observers considered national elections in 2011, regional elections in 2012 in Andalusia, Asturias, Galicia, the Basque Country, and Catalonia free and fair.

Participation of Women and Minorities: There were 139 women in the 350-seat Congress of Deputies, 91 women in the 264-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, although prosecutions and convictions for corruption were rare.

Corruption: According to the Attorney General's Office, there were a record 235 corruption-related indictments in 2012, of which embezzlement of public funds represented 40 percent of total cases, followed by administrative malfeasance at 26 percent. Sentences for crimes related to corruption increased by 151 percent in the last three years.

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 2010. In 2011 the Office of the Ombudsman processed 24,381 complaints, a decrease from 34,674 complaints in 2010. The Anti-Corruption Prosecutor and Court of Auditors handled investigation and prosecutions of corruption cases, while the office of the Secretary of State for Public Administration was responsible for policy development. They collaborated

effectively with civil society, operated effectively and independently, and received sufficient resources.

On June 27, prosecutors charged former Popular Party treasurer Luis Barcenas with money laundering, bribery, and tax fraud. In January authorities discovered a Swiss bank account in Barcenas' name that held 12 million euros (\$16.2 million), and at one time contained as much as 22 million euros (\$29.7 million). Two other accounts in New York and Connecticut holding 4.5 million euros (\$6.1 million) were also discovered.

On March 19, authorities jailed 20 persons for their misuse of "ERE" (layoff) funds meant to pay early retirement compensation at companies that implement labor-adjustment plans involving substantial layoffs. Members of the Spanish Socialist Workers' Party from the Andalusian regional government were linked to fraudulent awards of public grants from the funds to companies that supported the party over the period 2000 to 2009.

Whistleblower Protection: The law provides protections to public and private employees for making internal disclosures or lawful public disclosures of evidence of illegality, such as the solicitation of bribes or other corrupt acts, gross waste or fraud, gross mismanagement, abuse of power, or substantial and specific dangers to public health and safety.

Financial Disclosure: 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 law requires elected officials holding national office to publish their income and assets on publicly available websites each year, and there are sanctions for noncompliance. They are not required, however, to publish the assets and income of spouses and dependent children. The Ministry of Finance and Public Administration is responsible for managing and enforcing the law regarding conflicts of interest.

Public Access to Information: The law mandates public access to government information, and the government generally granted access to citizens and noncitizens, including foreign media. The law was implemented effectively and relevant authorities responded in a reasonably short time.

## **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.

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 2012, the latest year for which data are available, the ombudsman initiated 33,478 investigations and concluded 5,032. She did not pursue 9,996 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, sexual orientation, gender identity, or social status, and the government generally enforced the law effectively.

### **Women**

Rape and Domestic Violence: The law prohibits rape, including spousal rape, and the government generally enforced the law effectively. The penalty for rape is six to 12 years in prison. The law also prohibits violence against women, and independent media and government agencies generally paid close attention to gender violence. 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, by August 31, a total of 30 women were killed by their partner or former partner. The delegate noted that only 11 of the women killed had reported abuse prior to their death. According to the Special Prosecutor against Gender Violence, 67.2 percent of the 45,306 sentences resulted in conviction in 2012. The Observatory against Domestic and Gender Violence reported 29,487 complaints of gender-based violence in the first quarter of the year. The observatory cautioned that immigrant women and women over the age of 56 remained vulnerable, especially to gender violence.

A report by the governmental polling group Sociological Research Center in 2012 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, 73 percent never reported the mistreatment, and 25 percent of those who did withdrew their complaint.

The secretary of state for equality operated 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 August, this hotline handled 37,002 telephone calls.

In April 2012 the Ministry of Health, Social Services, and Equality and approximately 20 multinational companies created 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. On July 8, another 22 companies joined the program.

On July 26, the government approved the National Strategy to Eradicate Violence against Women for 2013-2016. The strategy includes 250 measures to fight gender violence, and has a budget of 100 million euros (\$135 million).

Female Genital Mutilation/Cutting (FGM/C): The law prohibits FGM/C and authorizes courts to prosecute cases even if the crime occurred overseas. According to the Wassu-Foundation, an NGO dedicated to the study and prevention of FGM/C, approximately 16,869 girls under the age of 14 in the country were at risk of FGM/C, 6,182 of whom resided in Catalonia.

In Catalonia the law requires that a doctor examine immigrants considered in danger of FGM/C when they travel to and from their countries of origin. Parents who subject their children 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. Catalan police registered 20 cases of women who were either treated for or prevented from being victims of FGM/C.

The government included the development of a sanitary protocol to fight FGM/C in the National Strategy to Eradicate Violence against Women 2013-2016.

Sexual Harassment: The law prohibits sexual harassment in the workplace; however, harassment reportedly continued to be a problem although few cases are brought to trial. The punishment in minor cases can be between three and five months in jail or fines of six to eight months' salary. In aggravated cases it can be five to seven months jail time or fines of 10-14 months' salary. Penalties can be increased for victims who are determined to be especially vulnerable.

Reproductive Rights: Couples and individuals decide freely the number, spacing, and timing of their children and have 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 law, and inheritance law. Discriminatory wage differentials continued to exist, and women held fewer senior management positions than men. According to 2013 data from the National Statistical Institute, women earned 23 percent less than men for comparable work. 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. If a child born in the country does not acquire the parents' nationality, the government will grant it.

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. Additionally, 517,000 children were victims of mistreatment within the context of gender violence.

Forced and Early Marriage: In April the government raised the minimum age of marriage from 14 to 16 years for minors living on their own. In 2012 a total of 224 persons under the age of 18 married (150 girls and 74 boys), and 37 of them (18 girls and 19 boys) were under 15. These marriages were 0.06 percent of all marriages that year.

Harmful Traditional Practices: In May the provincial court of Barcelona sentenced a Gambian couple residing in Vilanova i la Geltru to 12 years in prison for performing FGM/C on their two daughters of six and 11 years.

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. The law defines nonconsensual sexual abuse as sexual acts committed against persons under 13 years, unconscious persons, or mentally ill persons, and it provides from four to six years in jail.

Penalties for recruiting children or persons with disabilities into prostitution are 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, the government identified 13 child victims in 2012.

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 April, National Police arrested 41 persons in 18 provinces for possession and distribution of videos showing sexual abuse of children under age nine. Security Forces have seized 136 hard drives, eight laptops, 10 computer processors, four removable flash drives, 594 CDs and DVDs, and a smart phone.

On April 5, the Ministry of Health, Social Services, and Equality approved the 2013-2016 Plan for Children and Adolescents, with a budget of 5.15 billion euros (\$6.95 billion). The plan aims to prevent abuses and develop a comprehensive defense strategy for minors.

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 Department of State's country-specific information at [www.travel.state.gov/abduction/country/country\\_3781.html](http://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 2012 Raxen report, published in July, the Movement against Intolerance noted 400 anti-Semitic incidents per year in the country. The Observatory on Anti-Semitism in Spain meanwhile reported 30 anti-Semitic events in 2011.

In August in the city of Pinto, vandals painted the words "Hitler was right" and a large swastika on the walls of the city's bullring before a local celebration. The city did not immediately remove the graffiti because to do so would have delayed the celebration. The city removed the graffiti after the bullfight ended.

On March 26, a Barcelona court confirmed the February 2012 sentence of Luis Antonio Garcia Rodriguez, the editor of the magazine *Intemperie* (Outdoor) and the webpage "n-europa.org," to one year in jail for "spreading genocidal ideas." The judge also ordered the webpage 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.”

### **Trafficking in Persons**

See the Department of State’s *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

### **Persons with Disabilities**

The law prohibits, with fines of up to one million euros (\$1.35 million), discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, air travel and other transportation, access to health care, 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. Children with disabilities attended school, and there were no patterns of abuse in educational or mental health facilities. The government requires companies with more than 50 workers to reserve 2 percent of their jobs for persons with disabilities.

### **National/Racial/Ethnic Minorities**

In its 2012 Raxen 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.

In 2011, the last year for which data is available, the government-sponsored Network of Centers for Assisting Victims of Discrimination received 590 complaints of discrimination, of which 42 percent were from the African community, 17 percent from the Romani community, and 16 percent from the Latin American community. Of the complaints, 24 percent related to discriminatory actions related to housing, 19 percent related to security forces, and 19 percent related to discrimination in the workplace. The 2012 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 websites. The Office of the Ombudsman reported 48 complaints of racism and xenophobia in 2010.

A November 2012 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 2012 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's issuance.

On January 21-28, UN Special Rapporteur for Racism, Racial Discrimination, Xenophobia, and Other Forms of Intolerance Mutuma Ruteere visited the country. Ruteere warned that the current economic situation could create a climate of racial hostility and violence against migrants and asylum seekers. Ruteere also noted significant challenges for Roma in the areas of housing and employment.

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. The 2012 report of the FSG reported 114 cases of discrimination against Roma.

According to a report released in February 2012 by the Council of Europe's then 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 non-Romani 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.

### **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. Discrimination in employment is banned. The law can consider an anti-LGBT hate element 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 most workers, including foreign and all migrant workers, to form and join independent unions of their choice without previous authorization or excessive requirements. Military personnel and national police forces do not have the right to join unions, however, 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 constitution and law provide 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. 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 covered approximately 80 percent of the workforce in the public and private sectors as of the end of the year.

The law prohibits antiunion discrimination by employers against workers and union 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, 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](http://www.state.gov/j/tip).

### **c. Prohibition of Child Labor and Minimum Age for Employment**

Laws and policies provide for protection to children from exploitation in the workplace, and these laws were generally enforced. 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 child labor persisted. The government enforced effectively laws prohibiting child labor 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 645.30 euros (\$871.16) 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 15,445 euros (\$20,851) per year. The average income per worker in 2011 was 22,899 euros (\$30,914).

The law provides for a 40-hour workweek, with an unbroken rest period of 36 hours after each 40 hours worked. The law restricts overtime to 80 hours per year unless a collective bargaining agreement 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 inspectors find infractions. At the end of 2011 there were 1,681 labor inspectors in the country. Unions criticized the government for devoting insufficient resources to inspection and enforcement. A study by financial entity La Caixa estimated that the informal economy employed approximately one million persons and represented 18.6 percent of GDP. At the end of 2012, 414,454 of the estimated 700,000 domestic employees were registered with the social security system. The remaining share of the estimated total remained outside the formal economy.

Through August the Ministry of Employment and Social Security recorded 259,005 accidents in the workplace. Of these, 256,577 were reported as minor, 2,135 serious, and 293 fatal.