

# SPAIN 2019 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 on April 28 and November 10 to be free and fair.

Police forces include the national police and the paramilitary Civil Guard, both of which handle migration and border enforcement under the authority of the national Ministry of the Interior, as well as regional police under the authority of the Catalan and the Basque Country regional governments. Civilian authorities maintained effective control over the security forces.

There were no reports of significant human rights abuses during the year.

The government generally took steps to prosecute officials who committed human rights abuses. In some instances officials engaged in corruption and created the impression of impunity.

### **Section 1. Respect for the Integrity of the Person, Including Freedom from:**

#### **a. Arbitrary Deprivation of Life and Other Unlawful or Politically Motivated Killings**

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

#### **b. Disappearance**

There were no reports of disappearances by or on behalf of government authorities.

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

The constitution and laws prohibit such practices. There were reports of police mistreatment; courts dismissed some of the reports. On October 7, the UN Subcommittee for the Prevention of Torture (SPT) reported finding on its visit to the country in 2017 that, “in a majority of places of confinement,” authorities resorted “with a certain frequency” to “measures of mechanical restraint and other coercive means.” Subsequent to that visit, the Ministry of the Interior updated its protocols, restricting the use of mechanical confinement to very limited parameters. In his 2018 report, the ombudsman favorably assessed the new protocols.

The constitution provides for an ombudsman to investigate claims of police abuse. In 2018 the ombudsman received 22 complaints of police mistreatment and 67 complaints of incorrect treatment.

On May 20, the UN Human Rights Committee ruled that a member of the Basque terrorist group ETA, Gorka Lupianez, was subjected to torture while he was in incommunicado detention in 2007. The government denied the allegations of torture and stated that Lupianez was examined on a daily basis by a forensic doctor who did not find evidence of abuse or torture. The committee urged the government to investigate the allegations of torture and to take legislative measures to end incommunicado detention.

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

There were no significant reports regarding prison or detention center conditions that raised human rights concerns.

The SPT, nongovernmental organizations (NGOs), the national police union, and an association of judges criticized the internment centers for foreigners (CIEs) for a variety of reasons, including alleged violation of human rights, overcrowding, prison-like treatment, and a lack of interpreters. The law sets the maximum time for detainees in CIEs at 60 days. Moroccan and Algerian migrants were detained in CIEs upon entry to Spain, because these countries have extradition agreement with the Spanish government. Migrants from sub-Saharan Africa were not sent to CIEs, but were placed into the voluntary care of humanitarian NGOs.

Physical Conditions: There were no major concerns in prisons and detention centers regarding physical conditions, although several organizations alleged that overcrowding was a problem in some CIEs. In 2016 the Council of Europe’s Committee for the Prevention of Torture (CPT) reported poor ventilation remained

a problem in most establishments visited. In some cells there was dim lighting, and no natural light in any of the cells the delegation visited.

The SPT received complaints from female convicts in various prisons of limited opportunities for physical exercise, education, and job training for eventual release. It reported discrimination against women in facilities that also incarcerated men.

Administration: Authorities conducted investigations of credible allegations of mistreatment.

Independent Monitoring: The government generally permitted monitoring by independent nongovernmental observers, including the Coordinator for the Prevention of Torture and the SPT, in accordance with their standard operating procedures. In September 2018 a delegation from the CPT visited detention centers and prisons in Catalonia to investigate conditions there. The report of the visit was not yet public at year's end.

#### **d. Arbitrary Arrest or Detention**

The constitution and law prohibit arbitrary arrest and detention and provide for the right of any person to challenge the lawfulness of his or her arrest or detention in court, and the government generally observed these requirements.

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

The law permits police to apprehend suspects for probable cause or with a warrant based on sufficient evidence as determined by a judge. With certain exceptions police may not hold a suspect for more than 72 hours without a hearing. 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. These rights were respected. Authorities generally informed detainees promptly of the charges against them. The country has a functioning bail system, and the courts released defendants on bail unless they believed the defendants might flee or be a threat to public safety. If a potential criminal sentence is less than three years, the judge may decide to impose bail or release the accused on his own recognizance. If the potential sentence is more than three years, the judge must set bail. The law provides detainees the right to consult a lawyer of their choice. If the detainee is indigent, the government appoints legal counsel.

The law allows incommunicado detention when there is a threat to the detainee's life or physical integrity, or the need to avoid compromising criminal proceedings. Under the law incommunicado detention can only be applied by judicial order and is limited to 10 days' duration. The SPT noted the incommunicado detention of minors between the ages 16 and 18. 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 allows 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.

#### **e. Denial of Fair Public Trial**

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

#### **Trial Procedures**

The constitution and law provide for the right to a fair and public trial, and the independent judiciary generally enforced this right. Defendants enjoy a presumption of innocence, the right to be informed promptly and in detail of the charges against them, the right to a fair and public trial without undue delay, and the right to be present at their trial. Defendants have the right to an attorney of their choice. If the defendant is indigent, the government provides an attorney. Defendants and their attorneys have adequate time and facilities to prepare a defense. The government provides free interpretation as necessary from the moment the defendant is charged through all appeals. During the trial defendants may confront prosecution or plaintiff witnesses, and present their own witnesses and evidence. Defendants may not be compelled to testify or to confess guilt, and they have the right of appeal.

#### **Political Prisoners and Detainees**

Officials representing Catalan national political parties alleged that several party members under pretrial detention resulting from the October 2017 "referendum" on Catalan independence, declared unconstitutional by the Supreme Court, were "political prisoners." Neither the government nor any international human rights NGOs supported this claim. Nine members of proindependence Catalan political parties and civil society organizations were in pretrial detention since late 2017 on

criminal charges of rebellion, sedition, or misappropriation of public funds. In 2018 Amnesty International did not take a position on their claims to be considered “political prisoners.” In June the organization reiterated its demand for their release, noting “this claim does not in any case imply an assessment of their criminal responsibility.” The four-month trial ended in June, with the sentence pronounced on October 14. Authorities sentenced former vice president of Catalonia Oriol Junqueras to 13 years in prison, while former members of the regional government Raul Romeva, Jordi Turull, and Dolors Bassa received 12-year prison sentences, and Joaquim Forn and Josep Rull 10 years and six months. Former president of the regional parliament, Carme Forcadell, was sentenced to 11 years and six months. Civil society leaders Jordi Sanchez and Jordi Cuixart received nine-year prison sentences. The sentences, which convicted the leaders of sedition and misappropriation of public funds, sparked large demonstrations and disruptions of public services.

On November 19, Amnesty International criticized the Supreme Court’s interpretation of sedition as “excessively broad” and which “resulted in criminalization of acts of protest.” The organization called for the immediate release of Sanchez and Cuixart because it believed that their convictions represented “an excessive and disproportionate restriction on the peaceful exercise of their human rights.” Amnesty International “did not find any factor that indicated that the trial as a whole was unfair.” Regarding the Catalan politicians, Amnesty International stated, “They may have committed a crime that is lawfully prosecutable by virtue of the official position they held at the time.”

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

### **Property Restitution**

Having endorsed the 2009 Terezin Declaration, the government acknowledges the right to restitution, compensation, or both for victims of Holocaust-related confiscations of property. The government participated in the 1998 Washington Conference on Holocaust-Era Assets and is a signatory to the International Council of Museums Code of Ethics. The government formed a Commission on

Holocaust-Era Assets in 1997 to investigate the country's economic relations with Nazi Germany during World War II. In 1999 the commission's work expanded to include an investigation of works of art bought or sold in the country during the Holocaust. The commission concluded that, in terms of economic cooperation and moveable property, the country's role was very limited. An estimated 1 percent of the art dealers operating in Europe conducted business in Spain during World War II. Several Jewish groups and researchers criticized the findings because it did not include an investigation of the movement of looted works through the country or sufficiently research existing art collections in the country to ascertain whether they included works of art looted by Nazi Germany.

The local NGO Federation of Jewish Communities of Spain reported that there were no existing or prior cases of compensation or restitution in the country stemming from the Holocaust.

In January the family of Lilly Cassirer, a Jewish woman who fled Germany in 1939, filed a court case in the United States against Spain's Thyssen-Bornemisza Collection Foundation, alleging that a painting by Camille Pissarro, Rue Saint-Honore, was seized by Nazi officials in 1939 and incorporated into the Thyssen museum's collection in 1993, following a 1976 private purchase by the museum's benefactor. The judge ruled in favor of the Thyssen Museum on April 30, concluding that the museum is the lawful owner of the painting, and that under Spanish law, buyers retain works purchased if they do not possess "actual knowledge" that the works had been stolen.

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

The constitution prohibits such actions, and there were no reports that the government failed to respect these prohibitions.

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

#### **a. Freedom of Expression, Including for the Press**

The constitution provides for freedom of expression, including for the press, and the government generally respected this right. An independent press, an effective judiciary, and a functioning democratic political system combined to promote freedom of expression, including for the press.

Freedom of Expression: The law prohibits, subject to judicial oversight, actions including public speeches and the publication of documents that the government interprets as celebrating or supporting terrorism. The law provides for imprisonment from one to four years for persons who provoke discrimination, hatred, or violence against groups or associations on the basis of ideology, religion or belief, family status, membership in an ethnic group or race, national origin, sex, sexual orientation, illness, or disability.

The law penalizes the downloading of illegal content and the use of unauthorized websites, violent protests, insulting a security officer, recording and disseminating images of police, and participating in unauthorized protests outside government buildings. The NGO Reporters without Borders (RSF) called the law a threat to press freedom, while the Professional Association of the Judiciary considered it contrary to freedom of speech and information. The Spanish Socialist Workers' Party (PSOE) challenged the law in the Constitutional Court, where a decision remained pending.

Violence and Harassment: The RSF and other press freedom organizations stated that the country's restrictive press law and its enforcement impose censorship and self-censorship on journalists.

On September 11 and October 1, unknown persons assaulted television journalists covering demonstrations for Catalan independence in Barcelona. The perpetrators were not identified or apprehended. The RSF stated approximately 50 such abuses occurred in Catalonia in 2018 and 2019.

On October 15, the International Press Institute called upon authorities to ensure an end to police attacks on journalists covering protests following the ruling of the Supreme Court jailing leaders of the Catalan independence movement.

On November 6, Harlem Desir, the representative for the Organization for Security and Cooperation in Europe for Freedom of the Media condemned the posters that radical proindependence groups hung in Barcelona, calling six Spanish journalists "information terrorists," including their names and the media they work for, and telling them "to stay in Madrid." The Journalists Association of Catalonia and the Union of Journalists of Catalonia have also condemned the actions.

The Barcelona Hate Crimes Prosecutor's 2018 report continued to document an increase in the number of hate crimes beginning in October 2017, mostly attributable to political beliefs related to the Catalan independence movement. In

Barcelona Province, 40.5 percent of 412 registered cases represented hate speech and discrimination against those holding differing political views. Police reports confirmed an increase in cases of political discrimination in Catalonia. Attacks, which ranged from insults to physical assaults, increased from 121 in 2017 to 326 in 2018.

### **Internet Freedom**

The government did not restrict or disrupt access to the internet or censor online content, and there were no credible reports that the government monitored private online communications without appropriate legal authority. Authorities monitored websites for material containing hate speech or promoting anti-Semitism or terrorism.

In June the country's data protection agency (AEPD) fined the national soccer league (La Liga) 250,000 euros (\$275,000) for violating the EU's General Data Protection Regulations (GDPR). The AEPD alleged that La Liga's mobile application remotely accessed more than 10 million users' microphones and location to determine if they were watching illegal broadcasts of soccer games. The AEPD ruled that La Liga violated the transparency principle of the GDPR, which states that personal data should be processed lawfully, fairly and in a transparent manner.

### **Academic Freedom and Cultural Events**

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

In its 2018 annual report published on June 11, the ombudsman criticized the continuing lack of "ideological neutrality" in places of education, citing accounts of "partisan symbolism" on the facades of school and university buildings in several autonomous regions. The report cited complaints filed against the Catalan autonomous community by various NGOs and accused the regional government of "political indoctrination" in the educational field. The Catalan regional ombudsman also submitted a report on July 2018 which addressed the so-called political indoctrination within Catalan schools. The report analyzed complaints received and an analysis of textbooks. The report concluded that "beyond specific situations that must be amended in the approach of the political situation in schools, the analysis carried out showed that there is no [outright] indoctrination of students in Catalonia."

## **b. Freedoms of Peaceful Assembly and Association**

### **Freedom of Peaceful Assembly**

The law provides for the freedom of peaceful assembly, and the government generally respected this right. The law provides for fines of up to 600 euros (\$660) for failing to notify authorities about peaceful demonstrations in public areas, up to 30,000 euros (\$33,000) for protests resulting in “serious disturbances of public safety” near parliament and regional government buildings, and up to 600,000 euros (\$660,000) for unauthorized protests near key infrastructure. By law any protestors who refuse to disperse upon police request may be fined.

### **c. Freedom of Religion**

See the Department of State’s *International Religious Freedom Report* at <https://www.state.gov/religiousfreedomreport/>.

### **d. Freedom of Movement**

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights.

### **e. Internally Displaced Persons**

Not applicable.

### **f. Protection of Refugees**

Abuse of Migrants, Refugees, and Stateless Persons: The report of the SPT stated that, in the Aluche migrant center in Madrid, men were subject to physical and psychological abuse. Detainees of both sexes in Aluche were given only one change of clothes, while detainees in other visited centers received more than one change of clothes.

In its 2018 report on migrant centers in Ceuta and Melilla, the National Ombudsman noted the deterioration of housing facilities and the inadequacy of rooms for mothers with small children.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection

and assistance to refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Refoulement: Local NGOs and UNHCR reported several cases of migrant refoulement by Spanish authorities in the enclave cities of Ceuta and Melilla. In February the UN Committee on the Rights of a Child criticized the government for the refoulement of a 15-year-old Malian boy who tried to enter the country in Melilla in 2014. The committee stated the government failed to render the youth any assistance, to consider the basis of his request, and to consider the possibility of injury the boy might receive from Moroccan authorities upon his return.

Spain and Morocco signed an agreement in February to permit the Spanish Maritime Safety Agency to operate from Moroccan ports and to return irregular migrants it rescues off the Moroccan coast to shore in Morocco rather than to Spain.

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 country has bilateral return agreements with Morocco and Algeria. Authorities review asylum petitions individually, and there is an established appeals process available to rejected petitioners. The law permits any foreigner in the country who is a victim of gender-based violence or of trafficking in persons to file a complaint at a police station without fear of deportation, even if that individual is in the country illegally. Although potential asylum seekers were able to exercise effectively their right to petition authorities, some NGOs, such as the Spanish Commission for Refugees (CEAR), and the NGO Accem, as well as UNHCR alleged that several migration reception centers lacked sufficient legal assistance for asylum seekers. The NGOs reported that getting an appointment to request asylum could take months. CEAR reported the government granted refugee status to 575 individuals in 2018. This number did not include refugees accepted from Italy, Greece, Turkey, and Lebanon, as part of the EU relocation and resettlement plan.

According to the Ministry of the Interior, by August 13, 18,018 persons arrived in the country irregularly via the Mediterranean Sea or land border crossing points in Ceuta and Melilla bordering Morocco, 39-percent fewer than during the same period in 2018.

In September, CEAR criticized the government's failure to protect Honduran, Guatemalan, and Salvadoran nationals. According to CEAR, the government

during the year to that date approved only 15 requests of the nearly 320 asylum requests it reviewed. In 2018, 4,860 persons sought international protection in the country, with the majority filed by Hondurans (2,410) and Salvadorans (2,275). In the first six months of 2019, these numbers nearly doubled (3,212 Hondurans and 2,527 Salvadorans).

Safe Country of Origin/Transit: 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.

Access to Basic Services: In Ceuta and Melilla, according to UNHCR, asylum seekers could wait up to several months in some cases before being transferred to the care of NGOs in mainland Spain. Migrants from countries without a return agreement and those who demonstrated eligibility for international protection were provided housing and basic care as part of a government-sponsored reception program managed by various NGOs.

Durable Solutions: The government accepted refugees for relocation and resettlement and provided assistance through NGOs such as CEAR and Accem. UNHCR noted the country's system for integrating refugees, especially vulnerable families, minors, and survivors of gender-based violence and trafficking in persons, needed improvement.

The government assisted in the safe, voluntary return of failed asylum seekers and migrants to their homes or the country they came from.

Temporary Protection: The government also provided temporary protection to individuals whose applications for asylum were pending review, or who did not qualify as refugees and asylees. CEAR reported that in 2018 the government granted temporary international protection to 2,320 individuals. As of July, the government had granted humanitarian protection to approximately 7,700 Venezuelan citizens, which allows them one-year residency permit that can be extended to two years.

There was an unprecedented increase in the number of unaccompanied minor migrants arriving to the country. As of September, 1,700 new minors arrived in Catalonia to raise the total of minors under the protection of the regional authorities to 4,269. The regional government struggled to provide accommodation for the youths, some of whom had to sleep in police stations. The relocation of these youths to centers in Catalan towns sparked protests. In March a

man armed with a machete entered a building in Canet de Mar where 50 unaccompanied minors were housed. Protests occurred in Rubi and Castelldefels, where a group of 25 hooded attackers broke into the youth center, damaging property and throwing stones at the youths and their teachers. In July there were protests against unaccompanied minors in El Masnou after one of them was accused of attempting to rape a girl. The protesters tried to attack the center housing the unaccompanied minors, leaving six persons injured, including four of the youths. There have also been counterprotests condemning the protesters against the unaccompanied minors as racists.

### **g. Stateless Persons**

According to UNHCR, at the end of 2018, 2,455 stateless persons lived in the country. The law provides a path to citizenship for stateless persons. The law includes the obligation to grant nationality to those born in Spain of foreign parents, if both lack nationality or if legislation from neither parent's country of nationality attributes a nationality to the child, as well as to those born in Spain whose parentage is not determined.

## **Section 3. Freedom to Participate in the Political Process**

The constitution provides citizens the ability to choose their government in free and fair periodic elections held by secret ballot and based on universal and equal suffrage.

### **Elections and Political Participation**

Recent Elections: All national observers and from the Office of Democracy and Human Rights of the Organization for Security and Cooperation in Europe considered the national elections on April 28 and November 10 to have been free and fair.

Participation of Women and Minorities: No laws limit the participation of women or members of minorities in the political process, and they did participate.

## **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for corruption by officials, and the government generally implemented the law effectively. Prosecutions and convictions for

corruption were rare compared to the complaints filed, mainly because of the extensive system of legal appeals.

Corruption: Corruption was a problem in the country. In 2018 courts issued 63 corruption-related rulings, of which 40 were completely or partially condemnatory and 23 acquittals. During the first half of the year, courts issued 50 corruption-related rulings, of which 37 were completely or partially condemnatory. As of January, 90 persons were in prison for corruption charges. The main continuing corruption cases involved members of center-right Popular Party, retired police inspector Jose Manuel Villarejo, former managing director of the International Monetary Fund Rodrigo Rato, and Socialist Party former officials in the Andalusian regional government.

On June 25, the Group of States against Corruption of the Council of Europe removed the country from the list of countries that applied the requirements to fight corruption in an unsatisfactory manner.

On November 19, the Provincial Court of Seville sentenced 19 officials accused of abuse of power or misuse of 680 million euros (\$748 million) in public funds between 2000 and 2009. The judges ruled that the defendants were involved in illicit payouts using funding earmarked to assist the unemployed. The accused include two former Andalusian regional leaders from the PSOE and several regional PSOE officials, with some receiving six to eight years in prison and all barred from holding public office for eight to 19 years.

Financial Disclosure: Public officials are subject to financial disclosure laws and are required to publish their income and assets on publicly available websites each year. There are administrative sanctions for noncompliance.

## **Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses 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 often 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, independent, and had the public's trust. The

ombudsman's position has been vacant since 2014 and is filled on an acting basis by the first deputy assessor.

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

### **Women**

Rape and Domestic Violence: The law prohibits rape, including spousal rape; it does not distinguish between rapes of women and men. 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 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.

On January 15, the interior minister enacted an action plan to combat hate crimes and discrimination and to protect vulnerable groups from abuse based on, inter alia, gender. The plan provided for increased training for security forces to identify hate crimes; digital tools to identify and counteract hate speech on social media; an increase in coordinating efforts with human rights NGOs; increasing attention for victims of hate crimes; and amplifying the legal response to these incidents. The National Office Against Hate Crimes is responsible for coordinating and assisting responses among the ministry and security forces.

In January the Supreme Court adopted an agreement that establishes doctrine and updates criteria to identify gender-based violence. The agreement removed the requirement to establish “the intent to dominate” in cases of rape and domestic violence, stating that “the mere act of aggression by a man against a woman who is his partner or former partner already constitutes an act of gender-based violence.”

On August 21, the Ministry of the Interior reported a 0.3-percent decrease in the number of reported rapes during the first three months of the year. The Ministry of the Presidency, Relations with the Parliament and Equality reported that, as of March 31, there were 6,961 persons imprisoned for crimes related to gender-based violence.

On June 21, the Supreme Court reversed a lower court decision from 2018 and declared guilty of rape five men who gang raped an 18-year-old woman in Pamplona in 2016. The lower court originally found the defendants, Jose Angel Prenda, Alfonso Jesus Cabazuelo, Jesus Escudero, Angel Boza, and Antonio Manuel Guerrero, who called themselves “the Wolfpack,” guilty of the lesser

crime of sexual abuse. Under the updated Supreme Court sentence, each defendant will serve 15 years in prison.

On October 31, the provincial court of Barcelona sentenced five men to 10-12 years in prison for committing sexual abuse on a teenage victim in Manresa in 2016. The court ruled that, as the victim was in an “unconscious state” and did not struggle, charges of sexual assault could not be used since the men did not use violence or intimidation. The Barcelona prosecutor has appealed the verdict to a higher court in order to get defendants sentenced for sexual aggression.

According to the government’s delegate for gender violence, as of August 19 partners or former partners were responsible for the deaths of 40 women. According to the General Council of the Judiciary, 21,217 cases of gender-based violence were prosecuted in 2018. The Observatory against Domestic and Gender Violence reported 166,961 complaints of gender-based violence in 2018. There were 40,319 allegations of gender-based violence in the first quarter of the year. Independent media and government agencies generally paid close attention to gender-based violence.

In January an attorney in Zaragoza was killed by her partner, who was on probation after serving 14 years in prison for murdering his wife. The victim had been her partner’s defense attorney before entering into a relationship. The partner committed suicide after the killing.

A 24-hour toll-free national hotline advised battered women on finding shelter and other local assistance. Police also alerted female victims of gender-based violence of any changes in prison sentences of their attackers.

In September 2017 congress approved the *State Plan against Gender Violence*, with a budget of one billion euros (\$1.1 billion) over five years, to support efforts to counter the problem. On August 9, the government approved an additional 20 million euros (\$22 million) to municipalities to fight gender violence until June 30, 2020, under the framework of plan. It also allocated more than 5.26 million euros (\$5.77 million) to institutional campaigns to combat gender-based violence, trafficking, and childhood sexual abuse within the existing framework of the plan.

In 2018 Catalonia only accepted 48 percent of victims’ requests for protective measures, such as restraining orders, for victims of gender violence. In February the Catalan regional government established the Catalan Observatory for Gender Violence Justice to analyze the judicial responses and the current protocol for

handling cases of violence against women. It focuses on prevention, attention, and treatment of victims of domestic violence. In July the Catalan regional government also approved the *Strategic Plan for Gender Equality Policies 2019-2022*, aimed at improving the early detection of cases of gender violence and improve the assistance received by women and their children.

Female Genital Mutilation/Cutting (FGM/C): The law prohibits FGM/C and authorizes courts to prosecute residents of the country who committed this crime in the country or anywhere in the world. Doctors must ask parents residing in the country who originate from countries that practice FGM/C to sign a declaration promising their daughter(s) will not undergo FGM/C when they visit countries where the practice is common. Once a family returns to the country, a doctor must examine the girl(s) again and may start legal action against the parents if examination finds that the minors underwent FGM/C during their trip.

The *State Plan against Gender Violence* includes FGM/C as a form of gender-based violence.

Sexual Harassment: The law prohibits sexual harassment in the workplace, but few cases came to trial. The punishment in minor cases may be between three and five months in jail or fines of six to eight months' salary. Harassment continued to be a problem, according to media reporting.

Coercion in Population Control: The law allows persons with disabilities to be sterilized after being legally declared incapacitated by a judge and without the requirement to be informed (in cases where consent is at question) of the procedure.

Discrimination: Under the law women enjoy the same rights as men. The government generally enforced the law effectively.

## **Children**

Birth Registration: Citizenship is derived from one's parents. All children born in the country, except children of diplomats and children whose parents' country of origin gives them nationality, are registered as citizens. When a child does not acquire the parents' nationality, the government may grant it.

Child Abuse: The law provides protections for various forms of child abuse. Those accused of sexual abuses involving minors receive larger penalties. For

example, in cases of sexual abuse, instead of one to four years of imprisonment, the penalty increases to four to 10 years when the victim is a child. Cases of sexual aggression, which normally receive six to 12 years in jail, are punished with 12 to 15 years in cases involving minors.

As of May 31, either a parent or a parent's partner killed one minor.

Early and Forced Marriage: The minimum age of marriage is 16 years for minors' living on their own. Underage marriage is not uncommon in the Romani community.

In 2018 Catalan police assisted 14 victims of forced marriage, four of whom were minors.

Sexual Exploitation of Children: The law criminalizes the "abuse and sexual attack of minors" younger than age 13 and sets the penalty at imprisonment from two to 15 years, depending on the nature of the crime. Individuals who contact children younger than age 13 through the internet for the purpose of sexual exploitation face imprisonment for one to three years. Authorities enforced the law.

The minimum age for consensual sex in the country is 16. The law defines sexual acts committed against persons younger than age 16 as nonconsensual sexual abuse and provides for sentences from two to 15 years in prison, depending on the circumstances.

The penalty for recruiting children or persons with disabilities into prostitution is imprisonment from one to five years. The penalty for subjecting children to prostitution is imprisonment from four to six years.

The commercial sexual exploitation of trafficked teenage girls remained a problem (see also the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>).

The law prohibits using a minor "to prepare any type of pornographic material" as well as producing, selling, distributing, displaying, or facilitating the production, sale, dissemination, or exhibition of "any type" of child pornography by "any means." The penalty is one to five years' imprisonment; if the child is younger than age of 13, the length of imprisonment is five to nine years. The law also penalizes knowingly possessing child pornography.

There is a registry for sex offenders to bar them from activities in which they could be in the presence of minors.

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's *Annual Report on International Parental Child Abduction* at <https://travel.state.gov/content/travel/en/International-Parental-Child-Abduction/for-providers/legal-reports-and-data/reported-cases.html>.

### **Anti-Semitism**

The Jewish community numbered approximately 40,000-45,000 persons. The law that provided descendants of Sephardic Jews expelled from the country 500 years ago right of return as full Spanish citizens expired at the end of September, with more than 100,000 petitions received since 2015 and nearly 50,000 new cases in the last month alone. By the end of the year, the Ministry of Justice processed 26,290 cases from more than 60 countries, with Venezuelans (6,601) representing the largest block of applicants.

The law considers denial and justification of genocide to be a crime if it incites violence, with penalties that range from one to four years in prison.

The Observatory for Religious Freedom and Conscience reported that during 2018 there were six instances of religiously motivated aggression targeting Jews (one case of destruction of property, five cases of verbal abuse).

According to Jewish community leaders and the NGO Movement against Intolerance, anti-Semitic incidents included graffiti on Jewish institutions. In February a monument to the victims of the Mauthausen concentration camp in Almeria was defaced with graffiti that said "Jewish-free Almeria." In September the door of a synagogue of the Israelite Community of Barcelona was painted with graffiti saying, "free Palestine."

In April fans of soccer club RCD Espanyol displayed images of Anne Frank wearing club rival FC Barcelona's jersey. After the Federation of Jewish Communities of Spain asked RCD Espanyol to condemn the act, club officials denounced the incident and the regional police opened an investigation.

Government institutions promoted religious pluralism, integration, and understanding of Jewish communities and history, but their efforts did not reach all of the country's autonomous regions.

### **Trafficking in Persons**

See the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

### **Persons with Disabilities**

The law prohibits, with fines of up to one million euros (\$1.1 million), discrimination against persons with physical, sensory, intellectual, and mental disabilities. The government generally enforced these provisions effectively.

The law requires private companies with more than 50 employees to hire persons with disabilities for at least 2 percent of their jobs. In 2016 the consultancy Leialta estimated that 81 percent of the companies did not comply with the obligation.

The law mandates access to buildings for persons with disabilities. While the government generally enforced these provisions, levels of assistance and accessibility varied among regions. On June 12, the Spanish Confederation of Persons with Physical and Organic Disabilities reported that 1.8 million persons with disabilities required the assistance of third persons to enter and leave their residences and 100,000 persons with disabilities could not leave their residences at all.

A report in May by the UN Committee on the Rights of Persons with Disabilities reiterated the need for the country fully to abolish the forced sterilization, medical treatment, and research on persons with disabilities without their consent. The committee expressed its concern that a high number of children with disabilities received segregated special education.

On January 15, the interior minister enacted an action plan to combat hate crimes and discrimination and to protect vulnerable groups from abuse based, inter alia, on intellectual and physical disabilities.

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

In its report published in February 2018, the European Commission against Racism and Intolerance (ECRI) noted serious underreporting of hate crimes. The interior minister's action plan enacted on January 15 to combat hate crimes and discrimination and to protect vulnerable groups from abuse based, inter alia, on national origin and ethnicity included increased training for security forces to identify hate crimes; digital tools to identify and counteract hate speech on social media; an increase in coordinating efforts with human rights NGOs; increasing attention for victims of hate crimes; and amplifying the legal response to these incidents.

The Ministry of the Interior reported 524 hate crimes linked to racism (36.9 percent) in 2017, the most recent year for which data were available, an increase of 26.8 percent from 2016. The regions of Melilla, Catalonia, and the Basque Country, had the highest numbers of hate crimes according to the ministry's data.

Roma are subject to strong societal prejudice. In February 2018 ECRI reported that 55 percent of Romani children do not finish junior high school equivalent compulsory secondary school, a percentage that was increased to 64 percent by Isidro Rodriguez, president of the main Roma-focused NGO in Spain, "Fundacion Secretariado Gitano (FSG)." After the April 28 national elections, Romani representation in the national congress went from two representatives in the previous legislature to four, in four different political parties. The FSG registered 232 cases of discrimination against Roma in 2017, 30 more than in 2016.

On August 9, the government published the names of 4,427 Spaniards who died in the concentration camps of Mauthausen and Gusen, between 1940 and 1945. Some historians claimed that there are nearly 700 additional victims, whose death certificates were hidden by the Franco regime to prevent their families from asking for compensation. An estimated 9,000 Spaniards, mostly political prisoners and captured foreign fighters, passed through Nazi concentration camps during World War II. The government established May 5 as the day of tribute to Spanish deportees who died in concentration camps and for all Spanish victims of Nazism.

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

The country's antidiscrimination laws prohibit discrimination based on sexual orientation and gender identity, and the government enforced the law. The law penalizes those who provoke discrimination, hate, or violence based on sexual orientation with up to three years' imprisonment. The law also prohibits denial or

disqualification of employment based on sexual orientation and the formation of associations that promote discrimination, hate, or violence against others based on their sexual orientation. The law may consider hatred against lesbian, gay, bisexual, transgender, and intersex (LGBTI) persons an aggravating circumstance in crimes.

The number of homophobic attacks rose in Catalonia. The Observatory against Homophobia of Catalonia reported 81 incidents as of July 1, compared with 56 in the same timeframe in 2018. A new LGTBI resource center was vandalized with painted homophobic slurs and broken windows barely one week after its inauguration in January.

The SPT found that Moroccan gays were in situations of “extreme vulnerability, discrimination, and psychological fragility” in the migrant detention center in Melilla. Societal pressures force most Romani LGBTI persons to remain in the closet.

The interior minister’s action plan enacted on January 15 to combat hate crimes and discrimination and to protect vulnerable groups from abuse based, inter alia, on sexual identity included increased training for security forces to identify hate crimes; digital tools to identify and counteract hate speech on social media; an increase in coordinating efforts with human rights NGOs; increasing attention for victims of hate crimes; and amplifying the legal response to these incidents.

### **Other Societal Violence or Discrimination**

In May an internal letter in the Office of the General Prosecutor instructed on interpreting hate crimes. According to the letter, an assault on a person of Nazi ideology, or an incitement to hatred towards such a group, may be included among hate crimes.

According to the Ministry of the Interior, 1,419 hate crimes were reported in 2017, the latest year for which data were available, an 11.6-percent increase from 2016. Of these, 276 cases involved physical injuries and 253 involved threats.

The NGO Movement against Intolerance estimated that 80 percent of hate crimes in the country were unreported. The NGO’s 2018 report analyzed more than 600 incidents of hate crimes and identified factors such as social media and internet “hate speech,” rising xenophobia, anti-Semitism, Islamophobia, and the lack of a

general legislation or strategy to counter hate crimes as the principal causes of the increase in such activities.

According to a report from the Observatory for Religious Freedom and Conscience, in 2018 there were 200 instances of religiously motivated violence, compared with 166 in 2017.

The interior minister's action plan enacted on January 15 to combat hate crimes and discrimination and to protect vulnerable groups from abuse based, inter alia, on religious ideology and socioeconomic status included increased training for security forces to identify hate crimes; digital tools to identify and counteract hate speech on social media; an increase in coordinating efforts with human rights NGOs; increasing attention for victims of hate crimes; and amplifying the legal response to these incidents.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law allows most workers, including foreign and 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 generalist unions. Judges, magistrates, and prosecutors may join only bar associations.

The law provides for collective bargaining, including for all workers, part-time and full-time, in the public sector except military personnel, and the government effectively enforced the applicable laws. Public sector collective bargaining includes salaries and employment levels, but the government retained the right to set the levels if negotiations failed. The government has the unilateral power to annul, modify, or extend the content and scope of collective agreements in the public sector, and all collective bargaining agreements must be registered with the government.

The constitution and law provide for the right to strike, and workers exercised this right by conducting legal strikes. The law prohibits strikers from disrupting or seeking to disrupt harmonious relationship among citizens, disturbing public order, causing damage to persons or property, blocking roads or public spaces, or preventing authorities or bodies from performing their duties freely. Any striking union must respect minimum service requirements negotiated with the respective

employer. Law and regulations prohibit retaliation against strikers, antiunion discrimination, and discrimination based on union activity, and these laws were effectively enforced. According to the law, if an employer violates union rights, including the right to conduct legal strikes, or dismisses an employee for participation in a union, the employer could face imprisonment from six months to two years or a fine if the employer does not reinstate the employee. These penalties were sufficient to deter violations.

Workers freely organized and joined unions of their choice. The government generally did not interfere in union functioning. Collective bargaining agreements covered approximately 80 percent of the workforce in the public and private sectors at the end of the year. On occasion employers used the minimum service requirements to undermine planned strikes and ensure services in critical areas such as transportation or health services.

Although the law prohibits antiunion discrimination by employers against workers and union organizers, unions contended that employers practiced discrimination in many cases by refusing to renew the temporary contracts of workers engaging in union organizing. There were also antiunion dismissals and interference in the activities of trade unions and collective bargaining in the public sector.

According to a 2019 report by the International Trade Union Confederation (ITUC), companies routinely accede to individual agreements with employees to avoid collective bargaining with unions. The ITUC also criticized government restrictions on the right to strike, with unions reporting that more than 300 workers have been charged under the criminal code that regulates participation in strikes based on minimum service requirements.

## **b. Prohibition of Forced or Compulsory Labor**

The law prohibits all forms of forced or compulsory labor including by children.

The government effectively enforced the law. It maintained strong prevention efforts, although the efforts focused more on forced prostitution than other types of forced labor. The government had an insufficient number of inspectors to enforce the law effectively. The government did not implement new forced labor awareness campaigns. Penalties were sufficiently stringent to deter violations.

There were cases of employers subjecting migrant men and women to forced labor in domestic service, agriculture, construction, and the service industry.

Unaccompanied children remained particularly vulnerable to labor exploitation and forced begging.

Also see the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

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

The law prohibits the worst forms of child labor, as defined by international standards. The statutory minimum age for the employment of children is 16. The law also prohibits those younger than 18 from employment at night, overtime work, or employment in sectors considered hazardous, such as the agricultural, mining, and construction sectors. Laws and policies provide for protection of children from exploitation in the workplace, and these laws generally were enforced.

The Ministry of Employment, Migration, and Social Security has primary responsibility for enforcement of the minimum age law, and it enforced the law effectively in industries and the service sector.

The ministry did not effectively enforce the law on small farms and in family-owned businesses, where child labor persisted. The government effectively enforced laws prohibiting child labor in the special economic zones. In 2017, the most recent year for which data were available, the Ministry of Employment, Migration, and Social Security detected 20 violations of child labor laws that involved 24 minors between ages 16 and 18, and 19 violations involving 37 minors under 16 years old. The fines amounted to more than 250,000 euros (\$275,000). In 2017 there were 13 violations related to the safety and health of working minors, involving 18 minors, with penalties of more than 150,000 euros (\$165,000). The penalties for violating child labor laws were sufficient to deter violations.

There were reports that criminals subjected children to trafficking in the sex trade and forced solicitation, as well as pornography. Police databases do not automatically register foreign children intercepted at the borders, making them vulnerable to exploitation, including forced begging and commercial sexual exploitation (see section 6, Children).

### **d. Discrimination with Respect to Employment and Occupation**

The law prohibits discrimination with respect to employment and occupation and the government effectively enforced the law, although discrimination in employment and occupation still occurred with respect to race and ethnicity, gender, and sexual orientation. The government requires companies with more than 50 workers to reserve 2 percent of their jobs for persons with disabilities.

According to Eurostat, female workers earned 14.9-percent less per hour than their male counterparts. Gross salary, according to Eurostat, was 20 percent lower.

On International Women's Day on March 8, hundreds of thousands of women and men demonstrated in most cities to call attention to gender-based violence, wage gaps, and sexual harassment.

#### **e. Acceptable Conditions of Work**

The law provides for a national minimum wage, which barely met the poverty level in 2018.

The Ministry of Employment, Migration, and Social Security effectively enforced minimum wage, hours of work, and occupational safety and health standards in the formal economy but not in the informal economy.

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. Pay is required for overtime and must be equal to or greater than regular pay.

The National Institute of Safety and Health in the Ministry of Employment, Migration, and Social Security has technical responsibility for developing occupational safety and health standards. The law protects workers who remove themselves from situations that could endanger their health or safety without jeopardy to their employment.

The Inspectorate of Labor has responsibility for enforcing the law on occupational safety and health standards through inspections and legal action if inspectors find infractions. The number of inspectors was insufficient to enforce the law. The penalties were not sufficient to deter violations. Unions criticized the government for devoting insufficient resources to inspection and enforcement. The most common workplace violations included occupational safety standards in the construction sector and infractions of wages and social security benefits on

workers in the informal economy. In June 2018 Funcas (Fundacion de Cajas de Ahorros) estimated that the informal economy was between 18.5 and 24.5 percent of the country's gross domestic product.

In 2018 the Ministry of Labor, Migration, and Social Security recorded 617,488 workplace accidents, of which authorities considered 3,992 as serious but nonfatal. There were 557 fatal accidents, 15 more than in 2017.

Through July the Ministry of Labor, Migration, and Social Security recorded 310,130 workplace accidents, of which 292 were fatal accidents, 74 fewer more than the same period in 2018.