

# SPAIN 2020 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

The Kingdom of Spain is a parliamentary democracy headed by a constitutional monarch. The country has a bicameral parliament, known as 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 in the Congress of Deputies 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 April 2019 and November 2019 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 and municipal police throughout the country. Civilian authorities maintained effective control over the security forces. Members of the security forces committed some abuses.

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

The government had mechanisms in place to identify and punish officials who commit human rights abuses or engage in corruption.

### **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. In the event of the killing of an individual by security forces, the internal affairs division of the corresponding agency is responsible for investigating whether the killing was justifiable.

#### **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. The constitution provides for an ombudsman to investigate claims of police abuse, and the Office of the Ombudsman serves as the National Mechanism for the Prevention of Torture. In 2019 the ombudsman received four complaints of police mistreatment and 68 complaints of verbal abuse. Impunity was not a significant problem in the security forces.

There were multiple reports of excess use of force by law enforcement during the government-decreed state of alarm from March 14 through June 20 enacted in response to the COVID-19 pandemic. In August the nongovernmental organization (NGO) Defend Those Who Defend reported it registered 70 cases of mistreatment of individuals by state security forces. The NGO Rights International Spain reported several cases of excessive use of force documented on video showing police slapping, shoving, or kicking individuals.

A video posted online in March by Amnesty International showed police officers in Bilbao shoving a young man of North African descent, hitting him with a baton, and later hitting and arresting his mother after she told the police he was suffering from poor mental health. The Basque regional government opened an internal investigation into the use of force in the incident. The investigation continued as of November. Neighbors who filmed the incident were fined for “unauthorized use of images of law enforcement officials” and “lack of respect for law enforcement officials,” which Amnesty International denounced as restricting the right to freedom of expression.

In addition to its concerns about the police’s “unlawful use of force in the enforcement of lockdown measures,” Amnesty International in June cited concerns about the “lack of prompt, impartial, and thorough investigations into allegations of unlawful use of force as well as about discriminatory police checks.” In June the government detailed in a parliamentary response that it had opened proceedings against two civil guards and four national police officers for irregular actions during the state of alarm and was investigating approximately 30 additional complaints.

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

There were some reports regarding prison and detention center conditions that raised human rights concerns. NGOs reported extreme overcrowding at some temporary migrant detention centers due in part to the COVID-19 pandemic.

After the periodic visit of the Council of Europe's Committee for the Prevention of Torture (CPT) to the country in September, the press reported the CPT alleged during the visit mistreatment of an inmate in the Estremera prison in Madrid. On September 9, the inmate was reportedly placed in an isolation cell after he became unruly. When he was released, a medical examination found bruises on his buttocks, legs, soles of his feet, and ankles that had not been present when he was reviewed by a doctor before being admitted to the isolation cell. Prison leadership opened an internal investigation, and the Ministry of the Interior referred the incident to the court.

The UN Subcommittee for the Prevention of Torture (SPT) reported in October 2019 that, during its 2017 visit, it found that authorities in detention centers and other places of confinement frequently resorted 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 2019 report, the ombudsman reported that the prison administration officials informed the ombudsman that the use of mechanical restraints decreased, with 189 instances from January to April of 2019 compared with 322 instances during the same period in 2018. The use of mechanical restraints gained renewed attention after a video of the July 2019 death of 18-year-old Ilias Tahiri in a juvenile detention center in Almeria was made public in June. The video showed six prison officials strapping Moroccan-born Tahiri face down to a bed with his hands bound behind his back while two officials knelt on his back until he stopped breathing. In October a judge reopened the investigation into Tahiri's death, looking at possible charges of reckless homicide, after his family appealed the judge's January ruling that his death was an accident.

In its report on prison conditions in Catalonia released on February 4, the CPT reported complaints in all four prisons it visited of physical abuse of prisoners by prison officials, including slaps, punches, and blows with batons. The report alleged Catalan regional police officers subjected some detainees to an unauthorized restraint called a "sandwich" (entailing restraint of ankles and being placed between two plastic mattresses joined by strips of Velcro). The CPT expressed concerns about the practices of tying agitated prisoners to beds with straps and of forced medication of immobilized prisoners, noting they can cause serious injuries. The CPT also noted admission procedures failed to consider

gender-specific needs, including detection of sexual abuse or other gender-based violence inflicted prior to admission.

Physical Conditions: The COVID-19 pandemic put considerable stress on the temporary internment centers for foreigners (CETIs) in Ceuta and Melilla, which housed irregular migrants pending their repatriation who crossed the border fence from Morocco. A CETI in Melilla was at nearly double its capacity as of September, prompting local authorities temporarily to house migrants at the city's bullring alongside the homeless and Moroccan nationals unable to repatriate after Morocco closed its borders in March. (See section 2.f. for more information).

The CPT's February report on its visit to Catalonia noted Catalan regional police detention centers lacked access to natural light and outdoor space for exercise and had inadequate artificial lighting, poor ventilation, and insufficient access to drinking water and personal hygiene products.

Administration: Authorities conducted investigations of credible allegations of mistreatment.

Independent Monitoring: The government generally permitted monitoring by independent nongovernmental observers, including the Office of the Ombudsman, which is also the National Mechanism for the Prevention of Torture, the CPT, and the SPT, in accordance with their standard operating procedures. In 2019 the ombudsman made 106 visits to places where individuals were deprived of their liberty to assess conditions of confinement. During the year the ombudsman conducted primarily virtual visits to prisons and detention centers due to the COVID-19 pandemic. The CPT made a scheduled periodic visit to the country on September 13 to 28. A report of its findings was not 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. 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. Authorities generally informed detainees promptly of the charges against them. These rights were respected. 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 set 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 a 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. 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 does not allow them either to choose an attorney or 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 an 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. Government policy is to provide free interpretation as necessary from the moment the defendant is charged through all appeals, although there were reports that translations of charges and interpretation throughout trials were not always provided. 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**

On March 8, the UN special rapporteur for minority issues expressed concerns about the restrictions and criminal charges against Catalan politicians and civil society activists involved in the October 2017 “referendum.” The special rapporteur called on the government to abide by its legal obligations to protect the human rights of minorities, including the Catalan minority, especially regarding the freedoms of expression; peaceful assembly, association; and participation in public life. The ombudsman rejected the categorization of the Catalan-speaking population as a minority. The special rapporteur agreed with conclusions of the Working Group on Arbitrary Detention that the extended detentions and subsequent convictions of Jordi Sanchez and Jordi Cuixart, the two civil society activists convicted in the case, as well as the other Catalan political leaders in prison, were to intimidate them because of their political views.

On May 13, Amnesty International criticized the Supreme Court’s interpretation of sedition as “excessively broad” and alleged it resulted in the “criminalization of acts of protest.” On November 3, it reiterated its call for the government to release Sanchez and Cuixart.

In July the UN Working Group on Arbitrary Detention reiterated its previous recommendation to release seven of the nine Catalan proindependence prisoners convicted of sedition by the Supreme Court for their role in the October 2017 “referendum” on Catalan independence. Representatives of several Catalan national political parties called those convicted “political prisoners,” but neither the government nor any international human rights NGO supported this claim.

### **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.

### **Property Restitution**

The country endorsed the 2009 Terezin Declaration but has no immovable property restitution laws because, as the European Shoah Legacy Institute notes, private and communal property were not seized from Spanish Jewish communities during the Holocaust. 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. Some Jewish groups say that the government has not sufficiently investigated the movement of Nazi-looted art works through the country or sufficiently researched existing art collections in Spain to ascertain whether they include works of Nazi-looted art. The Federation of Jewish Communities of Spain reported there were no existing or prior cases of compensation or restitution in the country stemming from the Holocaust. The Department of State's Justice for Uncompensated Survivors Today (JUST) Act report to Congress, released publicly on July 29, 2020, can be found on the Department's website: <https://www.state.gov/reports/just-act-report-to-congress/>.

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

The constitution prohibits such actions. On October 22, a court in Barcelona agreed to investigate a complaint filed by Catalan regional parliament president Roger Torrent and regional parliamentarian Ernest Maragall that their cell phones were surveilled in 2019 using a software program developed by the Israeli company NSO Group. Amnesty International called on the government to publish information about any contracts it has with digital surveillance companies.

### **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 Speech: 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, race, national origin, sex, sexual orientation, illness, or disability.

On February 25, the Constitutional Court ruled that criticism, even severe, of politicians is protected speech and overturned the prison sentence of rapper Cesar Strawberry. In 2017 the Supreme Court sentenced Strawberry to a one-year imprisonment related to his social media posts criticizing politicians that the court ruled as hate speech.

The Law on the Protection of Citizen Security, known as the “gag law,” penalizes the downloading of illegal content, 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, and the Professional Association of the Judiciary considered it contrary to freedom of speech and information. During the government-decreed state of alarm from March 14 through June 20, state security forces used this law to fine citizens who violated mandatory confinement orders. Amnesty International protested the use of the law to fine several persons who filmed an incident allegedly showing police harassing a mentally ill man and his mother, noting its longstanding concerns with the vague formulation of the law, which authorizes sanctions for “lack of respect of law enforcement officials.” The acting ombudsman declared in April his intention to investigate its application during the confinement. On November 19, the Constitutional Court, in deciding a case brought by the Spanish Socialist Workers’ Party (PSOE) in 2015, upheld most of the law but ruled the provision against unauthorized recordings of members of security forces to be unconstitutional.

In a March 8 report, the UN special rapporteur for minority issues expressed concern that the October 2019 sentencing of 12 Catalan politicians and civil society activists interfered with the freedom of expression and nonviolent political dissent of the Catalan minority and could serve as a signal to prevent the political dissent of other minority groups. The national ombudsman rejected the categorization of the Catalan-speaking population as a minority.

On July 16, Amnesty International called on the government to repeal the criminalization of the glorification of terrorism, insults to the crown, and offending “religious feelings,” which it maintained unduly restricts freedom of expression.

On January 16, the Barcelona hate crimes prosecutor presented the first-ever legal complaint against an individual who falsely claimed in social media that

unaccompanied foreign minors were linked to school violence. The prosecutor noted that online hate speech was often not prosecuted due to lack of information on the identities of the perpetrators.

Freedom of Press and Media, Including Online Media: Independent media were active and expressed a wide variety of views generally without restriction. The RSF and other press freedom organizations, however, indicated that the country's restrictive press law and its enforcement impose censorship and self-censorship on journalists. In January the Universal Periodic Review of the country by the UN Human Rights Council noted that the Law on the Protection of Citizen Security was used against journalists who reported on police action during protests.

Journalist associations denounced the format of the government's press conferences during the government-decreed state of alarm during the COVID-19 pandemic. The journalists claimed they had to send all questions in writing in advance to a government communications office, which then relayed them to the relevant ministry. They alleged that not all their questions were passed on and that they were unable to engage in direct dialogue with government officials. More than 400 journalists signed an open letter to the government under the title "The Freedom to Ask" and demanded increased access to question government officials. In April the government ended its requirement that questions be submitted in writing in advance.

Violence and Harassment: There were multiple reports of government officials' verbally attacking certain media outlets and specific journalists. On March 1, President Pedro Sanchez accused "conservative" media of "stirring up society" every time conservatives lose an election. The same day, Second Vice President and Podemos party Secretary General Pablo Iglesias claimed press critical of the government had "offended the dignity of journalism." Also in March, Iglesias threatened to send a journalist to prison for publishing compromising information about his party, especially regarding its financing. The comments were immediately condemned by the Press Association of Madrid.

In July, following comments by Iglesias against the press and a tweet by Podemos party congressional spokesperson Pablo Echenique attacking the professionalism of a television anchor, the Federation of Journalists Associations of Spain condemned Iglesias and Echenique for attempting to "coerce and intimidate" journalists to prevent them from freely exercising their profession. The RSF also called on the Podemos party leadership and all political parties to respect the freedom of the press.

The RSF blamed repeated attacks against media by the Vox party for provoking verbal and physical attacks on reporters during May countrywide protests against the government's COVID-19 policies. In one instance several individuals assaulted a photographer covering a protest in Madrid, threw his camera to the ground, and tore his shirt. The RSF also voiced concerns about Vox's online harassment of critical journalists and fact checkers and condemned Vox for banning some media outlets from attending its press conferences and election events.

In February the International Federation of Journalists warned in its 2019 annual report about the increase in cases of violence against the exercise of journalism in Catalonia, asserting that this community has become "dangerous territory" for journalists.

Censorship or Content Restrictions: The government fully funds the public media conglomerate Spanish Radio Television (RTVE). The RTVE's president is proposed by the government and confirmed by parliament. Journalists complained that the RTVE, under a caretaker president since 2018, operated with insufficient oversight and claimed that the caretaker president arbitrarily reassigned news directors and journalists.

Libel/Slander Laws: Under the law slander is an offense punishable with six months' to two years' imprisonment or a fine. The law was not used by the government or individual public figures to restrict public discussion or retaliate against journalists or political opponents. The law does not criminalize blasphemy, but fines may be levied against those who offend the feelings of members of a religious belief or of those who do not have a religious belief.

National Security: Amnesty International and other organizations criticized the antiterrorism law as overly broad, but there were no known reports of the government using the law to suppress its critics.

## **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.

## **Academic Freedom and Cultural Events**

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

In its 2019 annual report published on May 13, the ombudsman reported continuing complaints about the lack of “ideological neutrality” in places of education, particularly in Catalonia. This included instances of “partisan symbolism” on the facades of schools and other public spaces in Catalonia. The ombudsman reported resistance by authorities--particularly Catalan regional government departments and city councils as well as educational, cultural, and health centers--to removing such symbolism after receiving citizen complaints. The ombudsman called upon these authorities to uphold principles of ideological neutrality in public spaces.

## **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 on the Protection of Citizen Security provides for fines of up to 600 euros (\$720) for failing to notify authorities about peaceful demonstrations in public areas, up to 30,000 euros (\$36,000) for protests resulting in “serious disturbances of public safety” near parliament and regional government buildings, and up to 600,000 euros (\$720,000) for unauthorized protests near key infrastructure. By law any protesters who refuse to disperse upon police request may be fined.

In July, Amnesty International expressed concern that the right to peaceful assembly was “unduly restricted” under the Law on the Protection of Citizen Security. The organization asserted the Law on the Protection of Citizen Security was arbitrarily enforced during the March-June government-mandated state of alarm due to the COVID-19 pandemic.

## **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.

The government declared a state of alarm throughout the country from March 14 through June 20 due to the COVID-19 pandemic. The state of alarm restricted internal movement and foreign travel. During most of this period, movement was restricted to purchasing food, medicine, and essential goods; visits to the doctor, bank, or insurance company; going to essential employment; or taking care of children, the elderly, or other dependent persons. Police were empowered to impose sanctions on those who did not comply with the restrictions. According to data provided by the national government representatives in the country's 17 autonomous regions, during the state of alarm there were more than 1.1 million proposed sanctions (generally fines) and more than 9,000 arrests for violations of confinement orders. When the national state of alarm ended, some regional governments imposed restrictions of movement in certain places because of an increase in the number of infections.

While the state of alarm was legally enacted by parliamentary approval, some civil society organizations noted it was applied inconsistently and arbitrarily. The ombudsman reported receiving thousands of citizens' complaints during the state of alarm and expressed concern about possible abuses, but on September 4, the ombudsman ultimately declared the measure constitutional in light of significant health concerns.

During the state of alarm, immigrants in irregular status and those working in the informal economy, particularly domestic workers, were often sanctioned by law enforcement while travelling to their workplaces due to the lack of required employer authorization paperwork. Amnesty International expressed concern about the disproportionate impact of the state of alarm on homeless persons and the "dozens of cases" in which they were fined for being on the streets. The NGOs Rights International Spain and International Decade for People of African Descent maintained police enforced an excessive interpretation of sanctions during the state of alarm by not requiring police officers to issue direct, specific, and individualized infractions.

On June 16, the European Parliament's Petitions Committee approved a request from a Spanish lawyer to investigate whether the government exceeded the limits of the state of alarm and violated fundamental rights.

### **e. Status and Treatment of Internally Displaced Persons**

Not applicable.

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

Irregular migration to the country increased by 26 percent during the year compared with the same time in 2019, with 37,303 arrivals as of November 30, according to the Office of the UN High Commissioner for Refugees (UNHCR). Sea arrivals increased by 50 percent (35,862 arrivals as of November 30) primarily due to the increased popularity of the West African route to the Canary Islands, which saw a more than 10-fold increase during the year, with 21,028 migrants arriving by this route as of December 6. Local NGOs reported that more than 2,000 of the arrivals were unaccompanied migrants, who were placed under the care of the Canary Islands regional government. According to UNHCR, the government's limited resources for evaluating new arrivals often made it difficult for the government to distinguish between economic migrants and those seeking international protection.

The government cooperated with UNHCR and other humanitarian organizations in providing protection and assistance to refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Abuse of Migrants, Refugees, and Stateless Persons: UNHCR, the International Organization on Migration (IOM), NGOs, the national police union, and an association of judges criticized the government-operated internment centers for foreigners who are to be deported (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 detention in CIEs at 60 days. Prior to the COVID-19 pandemic, Moroccan and Algerian migrants were detained in CIEs upon entry to Spain, because these countries have extradition agreements with the Spanish government. Migrants from sub-Saharan Africa were not sent to CIEs but were placed into the voluntary care of humanitarian NGOs.

In May the government closed the CIEs because border closures prevented the return of migrants to their countries of origin. Most new irregular arrivals arriving by sea were tested for COVID-19, and those who tested positive were referred to health authorities. Moroccans and Algerians already present in CIEs were released, and new arrivals from those countries were either placed into the care of

NGOs or released. On September 22, the government announced it would reopen the seven CIEs on the peninsula and the Canary Islands and resume repatriations. The CETIs in Ceuta and Melilla remained open during the state of alarm.

In Melilla overcrowding at a CETI prompted local authorities to house migrants temporarily at the city's bullring. On August 26, police arrested 33 migrants at a CETI after a protest against poor conditions and concerns of contagion turned violent. In late August, Amnesty International, UNHCR, the IOM, and the Council of Europe's Commissioner for Human Rights expressed concern about deteriorating conditions in Melilla and called on the government to transfer migrants to the mainland to alleviate severe overcrowding. Two judges blocked the local government's attempts to lock down the CETI after several migrants tested positive for COVID-19, stating it was the central government's responsibility to transfer migrants to the mainland in accordance with a Supreme Court decision on July 29 allowing freedom of movement throughout the country for asylum seekers who applied in Melilla and Ceuta. On September 2, a total of 60 migrants were transferred from the bullring to the mainland, the first such transfer since May.

The regional governments in Andalusia, Murcia, and the Canary Islands all reported difficulties managing COVID-19 testing and quarantine requirements for migrants arriving by sea. Local NGOs in the Canary Islands reported being overwhelmed by the large number of migrant arrivals to the islands exacerbated by the central government's decision not to transfer most migrants to the mainland to prevent encouraging more migrants to make the journey. Beginning in August the government started housing thousands of migrants in Red Cross tents at the Arguineguin port on Grand Canary Island, reaching a peak of 2,600 migrants in mid-November. NGOs and local government officials reported insufficient toilets and other sanitation supplies, bedding, and nutritional food for the migrants. On November 28, the ombudsman, citing overcrowded conditions, called on the interior minister to close the port immediately and to transfer the migrants to other facilities. On December 1, the government closed the port and transferred newly arrived migrants to a military installation, also on Grand Canary Island.

Since 2019 the Committee on the Rights of the Child (CRC) of the UN Office of the High Commissioner for Human Rights (OHCHR) adopted 14 decisions against the country concerning age determination of unaccompanied minors seeking asylum in the country. On October 13, the CRC stated that the country's procedures to assess the age of unaccompanied migrant children violated their fundamental human rights. The CRC experts found various violations of the

Convention on the Rights of the Child, including the right to identity, the right to be heard, and the right to special protection of children deprived of their family environments. In one case, according to the CRC, a 17-year-old Guinean teenager arrived in Almeria in 2017 after the Red Cross intercepted the small boat in which he was travelling. Although the teenager told police he was younger than 18, the police allegedly registered him as an adult without performing any age assessment. Police rejected his asylum application and detained him in a CIE for adults. Authorities released him 52 days later after an NGO helped him obtain his birth certificate, but, according to the CRC, he was not assigned a guardian to look after his legal interests, and he was not offered special protection provided for children under Spanish and international law.

Refoulement: The country has bilateral agreements with Morocco and Algeria that allow Spain to deport approximately 95 percent of irregular migrant arrivals of citizens from those countries, almost all without administrative processing or judicial order, in accordance with the Law of the Protection of Citizen Security. NGOs continued to criticize this practice, known as “hot returns.” Repatriations under these agreements stopped in March when the border was closed due to the COVID-19 pandemic. The government maintained this practice is legal and did not report the statistics of the number of persons returned to Morocco or Algeria. An agreement between Spain and Morocco permits 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.

On February 13, the ECHR reversed its position on Spanish “hot returns” of migrants that occasionally cross the land border from Morocco into the enclave cities of Ceuta and Melilla. In 2017 the ECHR ordered Spain to pay 10,000 euros (\$12,000) in compensation to two migrants who were returned to Morocco immediately after jumping the border at Melilla in 2014. The Spanish government at the time appealed the ruling. The ECHR’s new ruling determined that the government did not violate the European Convention on Human Rights, because the migrants put themselves in an illegal situation instead of attempting a regularized entry. Therefore, their immediate return was a consequence of their own conduct, the ruling concluded.

Local NGOs and UNHCR reported several cases of refoulement by authorities in Ceuta and Melilla. The local NGO Walking Borders accused the government of the refoulement of 42 migrants to Morocco on January 3. According to the group’s statement, which was cosigned by more than 60 other human rights groups, authorities picked up the migrants from the Spanish islands of Chafarinas and

returned them to neighboring Morocco without verifying their identity or ensuring that those eligible for asylum could have their claims processed. Authorities denied the so-called “hot return,” stating that the migrants were rescued at sea by Moroccan authorities and were never on Spanish territory. The ombudsman rejected the government’s claim.

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. 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.

The COVID-19 pandemic froze the asylum application process during the government-decreed state of alarm, during which time potential asylum seekers were unable to make new petitions for asylum. NGOs including the Spanish Commission for Refugees (CEAR) and the Red Cross as well as UNHCR continued to report concerns about delays in the asylum application process, with wait times varying across regions. UNHCR reported a one- to three-month waiting period to get an appointment to request asylum in Madrid and up to a year in some areas of Catalonia. Since the end of the state of alarm, the Ministry of the Interior has acknowledged continued delays because of the limited ability to conduct in-person interviews.

The ministry began digitalizing its asylum system to alleviate some of the case backlog. On November 4, a ministry official told congress that the Office of Asylum and Refugees increased its staff from 60 to 291 to speed up application processing. According to the secretary of state for migration, by October 30 the government had reduced the case backlog to 3,000, down from 8,000 earlier in the year.

UNHCR reported that 78,812 individuals had filed asylum claims in the country as of the end of October, a decrease of 16 percent from the same period in 2019. Of these, Latin Americans (particularly from Venezuela, Colombia, Peru, Nicaragua, Honduras, and El Salvador) accounted for 86 percent of applications; Venezuelans were the largest group (see below Temporary Protection). Most migrants arriving to the country from Africa and the Middle East sought to transit to other destinations in Europe and therefore did not apply for asylum in Spain.

According to CEAR's 2020 *Annual Report*, in 2019, 118,264 individuals applied for asylum in the country. The government offered international protection to 5.2 percent of applicants whose cases were resolved, compared with 24 percent in 2018. Of the 60,198 persons whose cases were resolved in 2019, 2.7 percent (1,653) were granted refugee status. Large percentages of applicants from Colombia (98.9 percent), the West Bank and Gaza (90.6 percent), El Salvador (88.5 percent), Nicaragua (84 percent), and Honduras (79.5 percent) did not receive either asylum status or other protection.

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.

Freedom of Movement: The COVID-19 pandemic limited migrants' freedom of movement since the government blocked many transfers of migrants from Ceuta, Melilla, and the Canary Islands to reception centers on the mainland. According to UNHCR, the government regularly facilitated humanitarian transfers from Ceuta and Melilla prior to the government-decreed state of alarm from March to June, but during the state of alarm it facilitated only two such transfers. The government did not provide data on transfers from the Canary Islands, but NGOs including the Spanish Red Cross reported it slowed considerably due to the pandemic. In November the interior minister announced the government would only transfer a small minority of vulnerable migrants to the mainland to prevent encouraging more migrants to make the journey. The ombudsman criticized the decision, and stated the government violated the freedom of movement of migrants it kept in tents at the Arguineguin port beyond the 72 hours of police custody permitted under the law.

On July 29, the Supreme Court ruled that migrants who apply for asylum in Ceuta or Melilla have the right to freedom of movement throughout the country. Previously, NGOs had criticized the government for not allowing freedom of movement for asylum seekers from the two autonomous enclaves until a decision had been made on the admissibility of their claim.

Employment: NGOs noted that many asylum seekers were unable to renew their paperwork required for employment due to lack of in-person appointments, leading some to miss job opportunities.

Access to Basic Services: Migrants from countries without a return agreement and those who demonstrated eligibility for international protection were provided

housing and basic care for up to three months as part of a government-sponsored reception program managed by various NGOs. Due to the difficulty for migrants seeking international protection on the Canary Islands to travel to the mainland during the COVID-19 pandemic, the Spanish Red Cross permitted some migrants to stay in their reception centers for longer than three months.

In September the secretary of state for migration issues accepted the ombudsman's recommendation to grant temporary residency permits to those seeking international protection without having to give up their applications for asylum.

Durable Solutions: The government accepted refugees for relocation and resettlement and provided assistance through NGOs such as CEAR, Accem, and the Spanish Red Cross. 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 from which they came.

Temporary Protection: The government also provided temporary protection to individuals whose applications for asylum were pending review or who did not qualify as refugees. CEAR reported that in 2019 the government granted international subsidiary protection to 1,503 individuals. Additionally, the government granted one-year residency permits (which can be extended to two years) on humanitarian grounds to 39,776 applicants (66 percent of applicants whose cases were resolved), the overwhelming majority of them from Venezuela. Humanitarian protection was generally not granted to immigrants from other Latin American countries.

According to the Ministry of the Interior, the country has adopted a policy of providing humanitarian protection to Venezuelans who do not qualify for other types of international protection in the country, including asylum. As of October 31, a total of 25,858 Venezuelans applied for asylum in the country, at 33 percent of all applicants, the largest group of asylum seekers. Humanitarian protection provides residency and work authorization for one year, which can be extended. Humanitarian protection was generally not granted to immigrants from other Latin American countries.

### **g. Stateless Persons**

According to UNHCR, at the end of 2019, a total of 4,246 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 the country 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 the country 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 those from the Office for Democratic Institutions and Human Rights of the Organization for Security and Cooperation in Europe considered the national elections in April and November 2019 to have been free and fair.

Participation of Women and Members of Minority Groups: No laws limit the participation of women or members of minority groups in the political process, and they did participate.

In a March 8 report, the UN special rapporteur for minority issues expressed concern that the October 2019 sentencing of 12 Catalan politicians and civil society activists interfered with the freedom of expression and nonviolent political dissent of the Catalan minority and could serve as a signal to prevent the political dissent of other minority groups. The Spanish Ombudsman rejected the categorization of the Catalan-speaking population as a minority.

### **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. Corruption cases crossed party, regional, and municipal lines, and while the backlog of cases was

significant, analysts noted courts continued to process them regardless of political pressure.

On August 11, a Madrid judge formally charged key members of the Podemos party with alleged misappropriation of public funds and embezzlement related to the financing of its headquarters renovations and consulting contracts during the 2019 electoral campaigns. The investigation stemmed from testimony by Podemos' former lawyers, Jose Manuel Calvente and Monica Carmena, who claimed financial irregularities, including the allocation of the renovation of the party's headquarters and the payment of surcharges to members of the party. The lawyers also claimed that Podemos was linked to Neurona Consulting, a purported front company used to divert money through contracts made during the April 2019 general election campaign and allegedly to pay commissions to Podemos' founder, Juan Carlos Monedero.

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 Office of the Ombudsman was generally effective, independent, and had the public's trust. The ombudsman's position has been vacant since July 2017 and is filled on an acting basis by the first deputy assessor. The ombudsman is appointed by parliament but serves in an independent oversight capacity.

## **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, although there were reports that judicial authorities dismissed cases if victims were not physically present in the country. The penalty for rape is six to 12 years in prison. Additional charges, including if the victim was a minor or if the assailant ridiculed the victim, may add to the length of the overall prison sentence. 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.

The law establishes “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”; there is no requirement to establish “the intent to dominate.” Amnesty International reported this change resulted in a two-tier system for sexual assault victims, with increased protections for those assaulted by a partner.

On July 31, the Ministry of the Interior reported a 5 percent decrease in the number of reported rapes during the first six months of the year. According to a joint report by the Observatory against Gender-Based and Domestic Violence and the General Council of the Judiciary, there were 51,790 verdicts in gender-based violence cases in 2019 with a 70 percent conviction rate. According to the Ministry of Equality’s Survey of Violence against Women 2019 published on September 11, more than 57 percent of the nearly 10,000 women surveyed reported being the victim of violence related to their gender, with nearly 20 percent reporting experiencing such violence within the last year.

Amnesty International cited continuing concerns with investigations of sexual assault and lenient sentencing for offenders. Lack of training on sexual assault cases for police, forensic investigators, and judges was a problem. There were reports that police officers were sometimes dismissive of rape allegations involving acquaintances and did not actively pursue such cases. Differing protocols for handling sexual assault cases around the country led to inconsistent access to justice for sexual assault victims. In Madrid a victim is required first to file a formal complaint and then visit a designated hospital in order for the hospital to activate protocols to collect criminal evidence. In Catalonia a victim may go to any hospital, and the hospital will activate the protocols. In Andalusia the situation varied based on city. Amnesty International also reported a lack of clear sentencing guidelines and varying sentences for sexual crimes based almost entirely at the discretion of the judge.

In several cases police leaked allegations of sexual assault to the press, which often excoriated women who alleged sexual assault, publishing without their permission

their names, photos, and intimate details of their claims and lives. The press often questioned the validity of their claims and veracity of their statements.

On March 18, the Superior Court of Castile and Leon overturned the rape conviction of Raul Calvo and reduced the convictions of Carlos Cuadrado and Victor Rodriguez from rape to sexual abuse for their role in the 2017 sexual assault of a 15-year-old girl in what was known as the “Arandina case.” In December 2019 the three former Arandina Football Club soccer players had been sentenced to a combined 38 years in prison. The March court decision set Calvo free and reduced the sentences of Cuadrado and Rodriguez to four and three years, respectively. Amnesty International, the Clara Campoamor Association, and other victims’ rights groups condemned the reversal.

According to the government’s delegate for gender-based and domestic violence, as of December 9, partners or former partners were responsible for the deaths of 42 women. According to the General Council of the Judiciary, 31,375 cases of gender-based violence were open for prosecution in 2019. The Observatory against Domestic and Gender Violence reported 168,057 complaints of gender-based violence in 2019. There were 36,185 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.

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. According to the delegate of the government for gender-based violence, between March 14 and May 15, during the nationwide lockdown under the state of alarm, there was an almost 62 percent increase in calls to the domestic violence hotline compared with the same period in 2019.

The Ministry of Equality published a guide for women suffering from domestic violence during the lockdown that included information on whom to call for emergency, legal, and psychological aid, as well as what to do if someone was threatened or in danger.

In November the Supreme Court ruled that women have the right, provided they meet other requirements, to petition for a widow’s pension even if, due to domestic violence, they were not living with their partner at the time of his death. The ruling allows unmarried women the same rights as married women in petitioning for the pension.

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. The Ministry of Equality's Survey of Violence against Women noted more than 40 percent of women reported having been sexually harassed over their lifetime, with more than 17 percent reporting harassment from a work colleague. More than 15 percent of the women surveyed reported being the victim of stalking.

In March the Republican Left of Catalonia party announced the removal of Carles Garcias Hernandez from his position as chief of staff to the regional government's foreign affairs counselor after multiple female colleagues accused him of sexual harassment and sexist behavior. In July, King Juan Carlos University suspended one of its professors for 13 months without pay after several female students accused him of sexual harassment and showed the university sexually explicit messages he had sent them. In addition to the suspension, the university announced it would publish a new antiharassment policy.

Coercion in Population Control: On December 18, an amendment to the Organic Law entered into force to prohibit forced or nonconsensual sterilization of persons with disabilities. There were no reports of coerced abortion or involuntary sterilization on the part of government authorities.

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 against 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.

According to the government's delegate for gender-based and domestic violence, as of December 9, either a parent or a parent's partner were responsible for the deaths three children.

In July the Catalan regional government opened a center in Tarragona to assist minors who are victims of sexual abuse. The center, the first of its kind in the country, provided integrated and child-centered services for children and adolescents exposed to violence and sexual abuse.

Child, 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 April a regional court in Murcia sentenced a Romani man to 10 years' imprisonment and five years of supervised probation for continuous sexual abuse related to the 2015 marriage between the then 26-year-old man and a then 15-year-old girl.

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 two to 10 years, depending on the age of the victim and the existence of violence or intimidation. The penalty for child sex trafficking is from five to eight years' imprisonment.

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 13, the length of imprisonment is five to nine years. The law also penalizes knowingly possessing child pornography.

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

The sex trafficking of teenage girls into prostitution remained a problem. See also the Department of State's *Trafficking in Persons Report* at <https://www.state.gov/trafficking-in-persons-report/>.

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 to 50,000 persons.

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 2019 there were three instances of religiously motivated aggression targeting Jews, all cases of attacks against Jewish property.

According to the Observatory of Anti-Semitism of the Federation of Jewish Communities of Spain, anti-Semitic incidents included hate speech on social media

and anti-Semitic graffiti. In May a regional court in Ceuta sentenced a man convicted of inciting hatred against Israel and Jewish communities on social networks to a one-year imprisonment (suspended due to lack of prior convictions), a fine, and a three-year prohibition from working in educational or sports vocations. In mid-March the observatory noted an increase in anti-Semitic speech on social media, including blaming Jews for creating the COVID-19 pandemic.

There were multiple instances of anti-Semitic graffiti. On September 9, the Cartagena Association for Historic Memory denounced the defacement with swastikas, stars of David, and “Jews out” graffiti of a municipal monument dedicated to Spanish Republicans from Cartagena who fled to France after the Spanish Civil War and were subsequently deported to Nazi concentration camps. In January a building at Alfonso X the Wise University in Villanueva de la Canada was defaced with graffiti that read, “I command, kill Jews” and a swastika. A wall at a nearby park was defaced with swastikas and graffiti that read, “free Palestine” and “kill a Jew.”

In February during separate carnival celebrations, participants dressed as Nazis and Holocaust victims during town parades. In Badajoz a 160-member group paraded dressed in suits split down the middle of half Nazi soldier and half concentration camp prisoner, choreographed to march and dance together to pop music. Props included a tank, metal fences, and a banner that displayed a swastika and Star of David together and signaled the gateway to the Auschwitz camp. In Campo de Criptana, a 130-member group dressed as Jewish prisoners, Nazi officers, and women in red coats akin to costumes from the movie *Schindler’s List* and danced to disco music with props that included a gas-chamber float embellished with two crematorium chimneys. The Israeli embassy in Spain condemned the Campo de Criptana parade, stating it made a “mockery of the six million Jews killed by the Nazis.” The Campo de Criptana City Council also issued a statement condemning the parade. Both groups of participants stated their intention was to pay tribute to Holocaust victims.

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. Following a July 20 meeting with the Federation of Jewish Communities of Spain, First Vice President Carmen Calvo announced that the government would employ the International Holocaust Remembrance Alliance’s Working Definition of Anti-Semitism. This move reaffirmed the country’s 2016 vote to endorse the working definition under the previous government.

## 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 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 July the interior minister published the *Action Protocol for Law Enforcement Agencies on Hate Crimes* to guarantee the equality of and prevent discrimination against vulnerable groups from abuse based on, inter alia, intellectual and physical disabilities. This follows the Interior Ministry's January 2019 action plan to protect vulnerable groups.

According to the State Employment Public Service's 2020 report, in 2019 more than 65 percent of persons with disabilities were unemployed, more than twice the percentage of the general population. Percentages increased with age and with the degree of visible disability.

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.

In August the Spanish Confederation of Personal with Physical and Organic Disabilities (CERMI) reported significant challenges in providing assistance to persons with disabilities due to the COVID-19 pandemic. This included the failure to provide educational and personal support such as in-person consultations with teachers and lack of access to sign language interpreters, communication mediators, and physiotherapists. CERMI also reported the lack of curriculum adaptations for students with disabilities for remote learning. It noted that the lack of psychological and emotional support negatively affected both the physical and mental health of students with disabilities. The situation for women and girls was particularly difficult, according to CERMI, in part because of higher rates of poverty and increased social exclusion.

On September 21, the OHCHR Committee on the Rights of Persons with Disabilities determined that the country violated the right to inclusive education of a child with Down syndrome by sending the child to a special education center over the objections of his parents. The committee concluded the government failed to assess the child's specific requirements and to take reasonable steps that could have allowed him to remain in mainstream education.

### **Members of National/Racial/Ethnic Minority Groups**

In July the interior minister issued the *Action Protocol for Law Enforcement Agencies on Hate Crimes*, which seeks to guarantee the equality of and prevent the discrimination against vulnerable groups based on, inter alia, national origin and ethnicity. The protocol orders law enforcement officers to avoid the use of terms or expressions that may be perceived as offensive or pejorative. For example, law enforcement officers are instructed to avoid using racially based word to address individuals belonging or appearing to belong to minority groups. The protocol followed the Interior Ministry's January 2019 action plan to protect vulnerable groups from abuse through 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 515 hate crimes linked to racism (20 percent of the total) in 2019, an increase of 20.8 percent from 2018. The regions of Catalonia, Melilla, Navarra, and the Basque Country had the highest numbers of hate crimes according to the ministry's data.

During the state of alarm, some civil society organizations noted the Law on the Protection of Citizen Security was applied inconsistently and arbitrarily, with law enforcement officers disproportionately stopping and sanctioning persons belonging to racial and ethnic minority groups as well as immigrants. The report *Racism and Xenophobia during the State of Alarm in Spain* released in June by the NGO Rights International Spain noted a spike in racist speech and actions during the COVID-19 pandemic. The report registered 70 instances of alleged racism during confinement committed by National Police, Civil Guard, the Basque regional police, and the Barcelona (municipal) Urban Guard. The report alleged the Ministry of the Interior did not initiate "prompt, exhaustive, and effective investigations into all acts of brutality and excessive use of force by the Security Forces." The report cited numerous media reports of verbal attacks against those of Chinese or Asian descent during the state of alarm, including blaming individuals

for the COVID-19 epidemic. The Gitano Secretariat Foundation (FSG) reported the dissemination of numerous anti-Roma hate messages via social media and WhatsApp during the state of alarm, such as messages warning individuals not to go to markets where Romani families sold their wares.

The UN special rapporteur for minority issues in a March 9 report stated that, although authorities took positive steps to train police to reduce racial profiling, minority groups still reported incidents of harassment, profiling, intimidation, and occasional violence. Marginalized groups including immigrants, persons of African descent, and Roma told the rapporteur they mistrusted and feared police and the judiciary.

In the country's first investigation for glorifying white supremacist terrorism, on September 11, Catalan regional police arrested two individuals in the towns of Lleida and Alicante (Valencia) for inciting hatred against various groups of foreigners, glorifying racist terrorism, and calling for attacks inspired by the massacre that took place in Christchurch, New Zealand.

In February the European Commission noted that immigrants from outside the EU and Roma continued to face integration challenges. Persons not born in the EU faced a nearly four times greater risk of severe material deprivation than natives and were considerably more exposed to precarious working conditions and to in-work poverty. In his February 7 report following his visit to the country, the UN special rapporteur on extreme poverty and human rights expressed concern that 72 percent of Romani, immigrant, and economically disadvantaged children studied in de facto segregated schools that had lower assessment scores and higher rates of grade repetition, failure, and dropping out. The UN special rapporteur for minority issues also expressed concern about school segregation affecting the Romani community, specifically public schools in Seville, which had a 90-percent Romani student population.

The Romani community is the largest minority group in the country, with an estimated 750,000 persons. Three representatives of Romani heritage were elected to the national congress in November 2019 elections, down from four elected in the April 2019 elections. The FSG reported significant integration challenges for the Romani community, including a high poverty rate (86 percent live below the poverty line, with 46 percent in extreme poverty), 52 percent unemployment rate (60 percent among Romani women), and 64 percent dropout rate for children in secondary education. The UN special rapporteur for minority issues stated the regulation of street trade, a central economic activity for Roma, was arbitrarily

applied to Roma in different areas of the country and sometimes resulted in discriminatory treatment. According to a November 2019 FSG report, there were 334 cases of discrimination against Roma in 2018, 102 more than in 2017.

According to the FSG, 44 percent of Romani families, typically dependent on daily wages, struggled to afford food during the March to June state of alarm. The FSG reported significant educational challenges for Romani children, including de facto school segregation in many cities and curriculums that either excluded the Romani community or promoted stereotypes. Lack of access to internet connections at home prevented many Romani children from participating in remote learning due to the state of alarm.

The UN special rapporteur for minority issues expressed concern about the increase in Catalonia of hate speech against Catalans as a minority group in social and other media as a result of the protests following the October 2019 sentencing of 12 Catalan politicians and civil society activists. The special rapporteur also reported that politicians and others outside the region had begun to paint Catalans as traitors who had to be dealt with severely, at times using violent language. The national ombudsman rejected the categorization of the Catalan-speaking population as a minority.

The report *For Rent? Racism and Xenophobia in the Housing Market* published in October by the NGO Provivienda noted discrimination in the housing rental market against immigrants and racial and ethnic minorities in Madrid, Barcelona, Alicante, and Granada. According to the report, seven of 10 of the real estate agencies contacted permitted clients to discriminate explicitly, and the other three permitted subtler forms of discrimination.

### **Acts of Violence, Criminalization, 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 persons an aggravating circumstance in crimes.

The interior minister's *Action Protocol for Law Enforcement Agencies on Hate Crimes* published in July sought to guarantee the equality of and prevent the discrimination against vulnerable groups based on, inter alia, sexual orientation and identity.

The number of homophobic attacks continued to rise in Catalonia. The Observatory against Homophobia of Catalonia reported 117 incidents as of September, a 20 percent increase from the same timeframe in 2019. According to the Barcelona Hate Crimes Prosecutor, law enforcement agencies in Barcelona also identified a 59 percent increase in the number of complaints received on discrimination on the basis of sexual orientation. The Observatory against Homophobia of Madrid reported 21 incidents in 2019.

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

According to the Ministry of the Interior, 1,598 hate crimes were reported in 2019, an 8.2 percent increase from 2018. Of these, 320 cases involved physical injuries and 350 involved threats.

According to a report from the Observatory for Religious Freedom and Conscience, in 2019 there were 175 instances of religiously motivated violence, compared with 200 in 2018.

The interior minister's *Action Protocol for Law Enforcement Agencies on Hate Crimes* published in July recalled the need to guarantee the equality and nondiscrimination of persons due to their special vulnerability, whether due to the lack of a family environment; abuse suffered; status as a refugee, asylum seeker or subsidiary protection; or any other relevant characteristic or circumstance.

On October 21, the national police joined the NGO Legalitas Foundation in a new campaign aimed at young persons under the slogan #SayNoToHate with the goal of raising awareness about preventing hate crimes.

## **Section 7. Worker Rights**

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

The constitution allows most workers, including foreign and migrant workers, to form and join independent trade 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 constitution provides for the right of part-time and full-time public sector workers to adopt collective bargaining agreements with employers' representatives. Public-sector collective bargaining includes salaries and employment levels, but the government retains 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 relationships 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.

Workers freely organized and joined unions of their choice. The government effectively enforced applicable laws and generally did not interfere in union functioning. Penalties were commensurate with those for other laws involving denials of civil rights, such as discrimination. Collective bargaining agreements covered approximately 80 percent of the workforce in the public and private sectors. 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.

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

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

The government maintained strong prevention efforts, although the efforts focused more on sex trafficking and forced prostitution than forced labor. The government had an insufficient number of inspectors and did not enforce the law effectively. The government did not implement new forced labor awareness campaigns. Penalties for applicable laws were commensurate with those for other analogous crimes, such as kidnapping.

There were cases of employers subjecting migrant men and women to forced labor in domestic service, agriculture, construction, and the service industry. Unaccompanied children were particularly vulnerable to labor exploitation and labor trafficking through 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, although permission from parents or guardians is required up to 18 years of age unless the person is legally emancipated. 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 Labor and Social Economy (Ministry of Labor) 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 always 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. Penalties were not commensurate with those for other analogous serious crimes, such as kidnapping. In 2018, the most recent year for which data was available, the Ministry of Labor detected 31 violations of child labor laws that involved 45 minors between ages 16 and 18 and 17 violations involving 23 minors younger

than age 16. The fines amounted to more than 324,000 euros (\$389,000). In 2018 there were 27 violations related to the safety and health of working minors, involving 35 minors, with penalties of more than 500,000 euros (\$600,000).

There were reports that criminals exploited children in child sex trafficking and forced prostitution as well as pornography. Police databases do not automatically register foreign children intercepted at the borders, making them vulnerable to exploitation and human trafficking, including labor trafficking through forced begging and child sex trafficking and forced prostitution (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, but it does not effectively enforce this law. Penalties were commensurate with laws related to civil rights, such as election interference.

The law mandates equal remuneration for work of equal value, but a pay gap exists between men and women. On September 24, the Spanish National Statistics Institute reported that women earned on average more than 11 percent less per hour than their male counterparts, compared with 14 percent less in 2014. The gap exists across variables such as age, education, years of service, occupation, type of contract, length of working day, activity, and company size.

In March 2019 the government approved an executive order on urgent measures to guarantee equal treatment and opportunities between women and men in employment and occupation. Congress validated the order in April 2019.

On October 13, the Council of Ministers approved a decree aimed at lessening the wage gap and increasing transparency of employee wages by requiring companies with more than 50 employees to publish salary data for all their workers, disaggregated by gender. On July 30, the Ministries of Labor and Equality signed with two major unions an agreement on effective equality between women and men at work. Under the agreement companies with more than 50 employees must create equality plans and maintain and audit payroll records for over- or undervaluation of positions based on gender.

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 2019. In June the government approved an increase to the minimum living wage, which will guarantee an income of between 461 euros (\$553) and 1,015 euros (\$1,218) for approximately 850,000 households. The measure aimed to reduce extreme poverty in the country by 80 percent.

The government effectively enforced minimum wage, hours of work, and occupational safety and health (OSH) standards in the formal economy but not in the informal economy. Penalties were commensurate with those for similar crimes, such as fraud.

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 Labor has technical responsibility for developing OSH 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 OSH laws through inspections and legal action if inspectors find infractions. The number of inspectors was insufficient to enforce the law in all instances, although the number of inspectors and infractions identified increased since 2014. The penalties were not sufficient to deter violations, with 45,605 violations identified in 2018, the latest year for which data was available. Unions criticized the government for devoting insufficient resources to inspection and enforcement. The most common workplace violations included OSH in the construction sector and infractions of wages and social security benefits on workers in the informal economy. The Ministry of Labor issued specific COVID-19 guidelines addressed to self-employed persons and companies that included measures to protect the health of workers.

In 2019 the Ministry of Labor recorded 650,602 workplace accidents, of which authorities considered 4,518 as serious but nonfatal. There were 716 fatal accidents, 13 fewer than in 2018.

Through July the Ministry of Labor recorded 263,434 workplace accidents, of which 418 were fatal accidents, 47 more than the same period in 2019.

During the government-decreed state of alarm, many domestic workers reportedly were dismissed from their employment in Madrid because they were unable to obtain the required employer-provided paperwork to travel between city districts due to their irregular status. Prior to the pandemic, the UN special rapporteur on extreme poverty and human rights in February described extremely poor living conditions for seasonal migrant workers in Huelva, including the lack of clean water and electricity, as well as inadequate sanitary conditions. Rights groups had long criticized migrant worker conditions in Huelva, noting exploitative labor conditions, physical abuse, sexual assaults, and racism.

After the Moroccan government closed its borders in March due to the COVID-19 pandemic, an estimated 7,100 Moroccan seasonal strawberry pickers, mostly women, were trapped in Huelva in unsanitary and overcrowded conditions, unable to repatriate following the termination of their contracts in mid-June. On July 15, the Spanish and Moroccan governments announced an agreement to repatriate the workers.