

SPAIN 2021 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 the two national elections held in 2019 to be free and fair.

The national police and the Civil Guard maintain internal security as well as migration and border enforcement, under the authority of the Ministry of the Interior. The regional police under the authority of the Catalan and the Basque Country regional governments and municipal police throughout the country also support domestic security. Civilian authorities maintained effective control over the security forces. There were credible reports that members of the security forces committed some abuses.

Significant issues included the existence of criminal libel laws.

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

Section 1. Respect for the Integrity of the Person

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, but there were some reports that law enforcement officials employed these. Courts dismissed some of these 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. According to a June report released by the Office of the Ombudsman, in 2020 the ombudsman received one complaint of significant police mistreatment and 39 complaints of other types of abuse, such as threats, coercion, insults, or harassment.

There were multiple reports of excessive use of force by law enforcement officers in response to protests. In February various political parties and human rights organizations alleged an excessive use of force, including the use of foam pellet projectiles, against those protesting the arrest and prison sentence of rapper Pablo Rivadulla Duro, better known by his stage name Pablo Hasel, who was supposed to report to jail for insulting and slandering the Crown and state institutions, and glorifying terrorism.

In February a judge declined to investigate a complaint filed by a group of nongovernmental organizations (NGOs) against police in Linares (Andalusia) for the disproportionate use of force during a protest against police brutality after an officer fired live pellet rounds into the crowd, resulting in the injuries of two protesters. The police admitted to making a “regrettable error.”

In March a court in Jaen (Andalusia) granted provisional release to two police officers detained in February after a video was publicized in which the off-duty officers were captured physically assaulting a man and his 14-year-old daughter in Linares. The officers were charged with assault, but a judge removed cruelty as an aggravating factor. The court ruled the man was responsible for instigating the altercation. The video gained significant public attention and led to disturbances that resulted in more than a dozen arrests and multiple reports of injuries.

In May a Barcelona court closed an investigation against three Catalan regional police officers involved in an incident in which a woman lost an eye after being hit

by a foam projectile. The judge ruled it could not be determined which of the officers discharged the weapon.

Human rights groups alleged authorities sometimes failed to investigate allegations of police misconduct or abuse properly. On January 19, the European Court of Human Rights (ECHR) ordered the government to pay 20,000 euros (\$23,000) to Inigo Gonzalez Etayo, a former member of the banned Basque independence group Ekin, for not sufficiently investigating Gonzalez Etayo's claims of torture in police custody in 2011. Gonzalez Etayo was convicted of belonging to a terrorist organization and sentenced to two years' imprisonment in 2016, although he was later given supervised release after renouncing the use of violence. The ECHR did not rule on the claim of torture itself. In March the ECHR ordered the government to pay 1,000 euros (\$1,150) to a woman for failing to investigate adequately her complaint about police abuse during a 2012 protest in Madrid.

In its report published November 9 on its September 2020 periodic visit to the country, the Council of Europe's Committee for the Prevention of Torture (CPT) stated it received a "significant number" of allegations of mistreatment by the national police, including allegations of slaps, punches, and kicks to the body and head as well as the occasional use of batons and other objects. The Office of the Ombudsman reported decreased instances of the use of forced physical restraints against individuals in prisons, jails, and detention centers in its 2020 report, but it cited the need for improvements during its application, including the need for audio recordings and 24-hour medical personnel. The CPT also noted progress across all prisons in the country in reducing the number and duration of the application of physical restraints, but the CPT cited the need for further reduction in its use, including at a juvenile detention center in Algeciras (Andalusia). The Law for the Protection of Children, which entered into force in June, prohibits mechanical confinement in juvenile detention centers.

Prison and Detention Center Conditions

Some reports regarding prison and detention center conditions raised human rights concerns. In its 2020 report, the Office of the Ombudsman cited the "profuse" use of coercive means to control inmates and detainees, including provisional isolation, physical force, and mechanical confinement.

NGOs reported overcrowding at the temporary migrant detention centers in Ceuta and Melilla. In July several NGOs also denounced an increase in violence as well as degrading and inhuman treatment against inmates by authorities in the government-operated foreigner internment center (CIE) in Aluche (Madrid). According to the NGOs, three detained persons attempted suicide and most of those interviewed complained about hostile police treatment at the CIE. Some NGOs called for the government to close all the CIEs in the country, citing poor conditions and a lack of deportation flights to many countries due to the COVID-19 pandemic.

The CPT noted credible allegations of mistreatment of inmates by prison officials in adult male prisons including slaps to the head and body, punches, kicks, and blows with batons. It also cited credible allegations of persons having the soles of their feet subjected to repeated baton blows. The CPT cited the need for a gender-specific approach to account for the specific needs of women in female prisons, including the adoption of a policy to prevent and reduce acts of self-harm. The CPT expressed concern about treatment and conditions for patients in two prison psychiatric hospitals in Alicante and Seville, including some allegations of mistreatment as well as prolonged periods of seclusion without adequate judicial review.

Physical Conditions: The COVID-19 pandemic continued to stress the temporary internment centers for foreigners (CETIs) in Ceuta and Melilla, which housed irregular migrants pending their return to Morocco.

Administration: Authorities conducted investigations of credible allegations of mistreatment.

Independent Monitoring: The government generally permitted monitoring by independent nongovernmental observers. Observers include the Office of the Ombudsman, which is also the National Mechanism for the Prevention of Torture, as well as the CPT, and the UN Subcommittee on Prevention of Torture, in accordance with their standard operating procedures. In 2020 the ombudsman made 66 on-site visits and 49 virtual visits to assess conditions of confinement facilities.

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, destroy evidence if released, 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 or her own recognizance. If the potential sentence is more than three years, the judge must set bail to release the accused. The law provides detainees the right to consult a lawyer of their choice. If the detainee is indigent or does not select a lawyer, 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 terrorism suspects 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. Human rights groups expressed concern over the lack of political agreement since December 2018 to appoint new members to the General Council of the Judiciary, which selects the presidents of most of the country's courts. In its rule of law report published on July 20, the European Commission noted concern regarding the politicization of the judiciary related to the expiration of the General Council of the Judiciary's mandate. The commission also expressed concern about the way in which judges are selected for the General Council of the Judiciary, noting that the majority are not elected by judges themselves in line with standards of the Council of Europe.

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, except in rare instances where a judge has ordered the incommunicado detention of a terrorism suspect. If the defendant is indigent or does not select one, 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

Representatives of several Catalan nationalist political parties called the nine Catalan proindependence leaders who were serving prison sentences for their roles in the unconstitutional 2017 regional independence referendum “political

prisoners.” Neither the government nor any international human rights NGO supported this claim. On June 22, the government partially pardoned the nine convicted individuals and released them from prison. The individuals remain barred from public office and under supervised release ranging from three to six years.

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 ECHR after they exhaust all avenues of appeal in national courts.

Property Seizure and 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 (FCJE) reported there were no existing or prior cases of compensation or restitution in the country stemming from the Holocaust. The FCJE estimated very few survivors of the Holocaust resided in the country and said, for this reason, the government only considered property restitution on a case-by-case basis. In March a Pontevedra (Galicia) museum announced it would return two paintings to the Czartoryski collection in Poland after experts determined they formed part of a collection looted from the Czartoryski family during the Second World War. The museum voluntarily surrendered the works, although it was not required to do so under the law, which says buyers retain rights to works purchased without “actual knowledge” of theft.

The Department of State's Justice for Uncompensated Survivors Today (JUST) Act report to Congress, released publicly in July 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. In March police entered two private residences in Madrid to break up parties violating public health orders prohibiting home gatherings pursuant to an internal police order authorizing “necessary operational devices to ensure compliance with [health] measures and recommendations.” While the gatherings themselves did not constitute a crime, police maintained that citizens who refused to open the door and identify themselves committed the crime of disobedience, which is penalized under the Law on the Protection of Citizen Security. Lawyers and rights groups called the action unconstitutional, saying entry without a warrant violated the right to inviolability of the home.

Amnesty International continued to call on the government to publish information about any contracts it has with digital surveillance companies, as a follow-up to the investigation a court in Barcelona was carrying out on the complaint filed by former 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.

Section 2. Respect for Civil Liberties

a. Freedom of Expression, Including for Members of the Press and Other Media

The constitution provides for freedom of expression, including for members of the press and other media, and the government generally respected this right. An independent press, an effective judiciary, and a functioning democratic political system combined generally 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 and fines for persons who provoke discrimination, hatred, or violence against groups or associations based on ideology, religion or belief, family status, membership in an ethnic group, race, national origin, sex, sexual orientation, illness, or disability, or for those who offend religious sentiments, glorify terrorism, insult the Crown and state institutions, or propagate hate speech. 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.

A range of civil society organizations and rights groups have repeatedly pointed to these provisions of the law as limiting freedom of expression in the country.

In February Catalan regional police arrested rapper Pablo Hasel after he failed to report to prison following his January 28 sentencing to nine months' imprisonment with a fine on charges of glorifying terrorism and insulting the Crown and state institutions. Hasel's arrest sparked dozens of protests and renewed debate about freedom of expression in the country. Some of these protests turned violent. More than 200 artists signed a petition denouncing the sentence. Amnesty International called Hasel's arrest an "absolute outrage" and "terrible news for freedom of expression in Spain." In March the National Court sentenced Hasel to an additional one year and four months' imprisonment for not paying the fine imposed in his original sentence.

In March the ECHR condemned the government for exercising disproportionate interference in the freedom of expression of two individuals who were convicted for criticizing a judge in a letter published in a newspaper in 2010. The court ordered the government to pay more than 32,000 euros (\$37,000) to the two individuals.

In June the ECHR ruled the government had violated the right to freedom of expression of Tasio Erkizia, a former proindependence Basque politician, in sentencing him in 2016 to one-year imprisonment on charges of glorifying terrorism. The court ordered the government to pay Erkizia 11,000 euros

(\$12,700).

In December 2020 the Constitutional Court ruled that disturbing a religious ceremony is not protected by the right to freedom of expression. The sentence responded to an appeal filed by a man who was sentenced to six months in prison for interrupting a parish mass in 2017 and shouting in support of free abortions.

In December 2020 the Constitutional Court ruled that encouraging the burning of the national flag was not protected by the right to freedom of expression.

Freedom of Expression for Members of the Press and Other Media, Including Online Media: Independent media were active and expressed a wide variety of views generally without restriction. Reporters without Borders (RSF) and other press freedom organizations, however, stated that the country’s “restrictive press law” and its enforcement impose censorship and self-censorship on journalists.

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, disobeying a security officer, and participating in unauthorized protests outside government buildings. In November 2020 the Constitutional Court upheld most of the law but ruled unconstitutional the provision against unauthorized recordings of members of the security forces. Multiple NGOs and professional associations continued to call the law a threat to press freedom and contrary to freedom of expression and information.

The RSF expressed concern that growing polarization and lack of transparency were eroding public confidence in journalists and fueling vitriolic rhetoric against the media. The RSF and the NGO Rights International Spain said the government limited journalists’ ability to fulfill their functions related to covering the COVID-19 pandemic and the arrivals of migrants in the Canary Islands, specifically by limiting the ability of photographers to access certain sites.

In September journalist associations denounced politicians in the Congress of Deputies for selecting which questions journalists were permitted to ask. The association said such instances had occurred several times and represented an intolerable obstacle to freedom of the press.

Violence and Harassment: There were multiple reports of government officials and politicians verbally harassing certain media outlets and specific journalists.

Various press associations and politicians maintained the leadership of the Podemos party, the junior partner of the governing coalition, verbally harassed individual journalists and the media more broadly. In a February speech in the Congress of Deputies, then-second vice president and Podemos party leader Pablo Iglesias accused media organizations of being a “weapon of corporate power.” In April press associations denounced a Podemos electoral campaign video, saying it used images of journalists for “intimidation purposes” and as an “attack on the free exercise of journalism.” The RSF and other rights groups expressed concern that the opposition Vox party sought to stigmatize journalists through online harassment and by prohibiting the media from covering its events, notably its campaign rallies prior to the Madrid regional elections on May 4. Human rights groups maintained that Vox politicians’ antimedia rhetoric sometimes incited violence against journalists by Vox supporters, particularly during protests.

In July the RSF reported that demonstrators protesting mask requirements and COVID-19 vaccinations of minors threatened and insulted a television reporter in Madrid. The RSF called on authorities to provide reporters with better protection and to investigate any physical attacks thoroughly.

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. The parliament confirmed a new RTVE president in March, alleviating some concerns from journalists about oversight of RTVE, which had been under a caretaker president since 2018.

In its July report on the country’s rule of law, the European Commission cited the need to improve the transparency of the ownership of media outlets.

Libel/Slander Laws: Under the law slander is an offense punishable with six months’ to two years’ imprisonment or a fine. During the year the law was not used by the government or individual public figures to restrict public discussion or retaliate against journalists or political opponents.

National Security: Human rights groups criticized as overly broad the antiterrorism law, particularly the part of the penal code that criminalizes the glorification of terrorism, which they maintained limits the right to freedom of expression. Amnesty International called the February detention of rapper Pablo Hasel on charges including the glorification of terrorism “unjust” and said it violated his right to artistic expression.

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.

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 (\$690) for failing to notify authorities about peaceful demonstrations in public areas, up to 30,000 euros (\$34,500) for protests resulting in “serious disturbances of public safety” near parliament and regional government buildings, and up to 600,000 euros (\$690,000) for unauthorized protests near key infrastructure. By law any protester who refuses to disperse upon police request may be fined.

Human rights groups continued to maintain the Law on the Protection of Citizen Security unduly restricts the right of peaceful assembly. In July a group of human rights organizations asserted the Law on the Protection of Citizen Security was arbitrarily enforced during several government-mandated states of alarm due to the

COVID-19 pandemic in 2020 and 2021. The organizations said the law was used repeatedly against activists and journalists to impede their right to protest and to report on protests. Defend the Defenders, a consortium representing multiple NGOs dedicated to protecting freedom of assembly, reported the excessive use of the law's disobedience clause, which allows police to fine individuals for disobeying orders even if the individual was not engaged in unlawful activity. The organization reported 160 known cases of sanctions under the disobedience clause levied against individuals participating in protests as of September 30, compared with 110 such sanctions issued in all of 2020.

NGOs expressed concern about the arbitrary application of health restrictions due to the COVID-19 pandemic across the country, specifically about the right to freedom of assembly. The Madrid regional government announced March 4 that due to the COVID-19 pandemic, it would prohibit all protests planned for March 7-8 to celebrate International Women's Day. Amnesty International called the blanket prohibition a "disproportionate limitation" on the right to peaceful assembly and said each permit request should be evaluated individually. The country's two main labor unions and two women's rights groups filed a complaint against the Madrid regional government for violating the right to freedom of assembly with the Constitutional Court, which upheld the regional government's prohibition.

c. Freedom of Religion

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

d. Freedom of Movement and the Right to Leave the Country

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

In-country Movement: On July 14, the Constitutional Court ruled unconstitutional several aspects of the first state of alarm to limit the spread of COVID-19 in force between March and June 2020, including limitations on the movement of persons and vehicles in public spaces, restrictions on commercial

activity, and home confinement. Although the state of alarm was enacted with parliamentary approval, the court ruled that the specific measures that limited freedom of movement required separate parliamentary approval to enact a different type of emergency framework. On October 27, the Constitutional Court ruled unconstitutional the entire second pandemic-related state of alarm, in force between November 2020 and May 2021. The court determined the six-month period of restrictions, including limitations of movement between regions, violated the premise that states of alarm last no longer than necessary and be revised periodically. The court also found fault with blanket permissions allowing regional governments to implement their own measures without central government oversight.

Civil society organizations maintained that authorities inconsistently and arbitrarily applied restrictions during the state of alarm and disproportionately fined the poor, immigrants in irregular status, and racial and ethnic minorities for violating confinement orders. The court decision means the fines for violations are eligible to be annulled. While the government reported more than one million such fines levied during the March to June 2020 state of alarm, the ombudsman called on the Ministry of the Interior to release data related to fines and other sanctions following the state of alarm, including during the second state of alarm. On October 22, the government announced it would cancel the more than 1.1 million euros (\$1.3 million) in fines issued to citizens who violated restrictions during the March to June 2020 state of alarm and issue refunds to those who had already paid the fines.

e. Status and Treatment of Internally Displaced Persons

Not applicable.

f. Protection of Refugees

Irregular land and sea migration increased by 4 percent during the year compared with the same time in 2020, with 39,482 arrivals as of December 5, according to the Office of the UN High Commissioner for Refugees (UNHCR). Sea arrivals increased by 5 percent (38,334 arrivals as of December 5) primarily due to the continuing popularity of the West African route to the Canary Islands, with 20,792

migrants arriving by this route as of December 5. On May 17-18, thousands of migrants entered the country's North African enclave of Ceuta by sea and land. The Ministry of the Interior did not publish official estimates of the number of migrants who entered Spanish territory during that time, but NGO and press estimates ranged from 8,000 to 12,000 persons. 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, or asylum seekers, as well as other persons of concern.

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 in irregular status.

The COVID-19 pandemic froze the asylum application process during the first government-decreed state of alarm from March to June of 2020, creating significant delays in asylum processing in 2020 which continued into 2021. Organizations working with refugees reported steps taken by the Ministry of the Interior to address the delays, including the hiring of additional personnel and digitalization of some processes, helped alleviate the backlog of pending asylum claims. In December the Ministry of the Interior announced it had reduced the backlog of pending asylum applications by 41 percent to 73,000 by the end of November, down from 124,000 at the end of 2019. The ministry credited the office's progress to significant staffing increases, a new application review process, and improved coordination with other government agencies.

Individuals who enter the country by irregular means are held in centers for temporary assistance for foreigners (CATEs) under police supervision for initial reception, biometric intake, and processing. The law permits individuals to be held

in CATEs for a maximum of 72 hours. UNHCR reported the need for increased mechanisms in CATEs to allow individuals to apply for asylum during their initial 72 hours in the country. UNHCR reported that while it had access to the CATEs, it had insufficient staff to educate new arrivals about international protection mechanisms. In March the European Asylum and Support Office (EASO) established a presence in the Canary Islands to assist with processing claims.

Authorities immediately returned to Morocco most individuals who irregularly entered Ceuta on May 17-18. The government maintained this practice is legal, per its agreement with Morocco and a February 2020 ECHR ruling siding with Spain over two migrants who were returned to Morocco after jumping the border fence in Melilla. Rights groups, however, said many of those returned to Morocco appeared to have been processed without repatriation orders required under the law. Media outlets and organizations working with refugees reported that at least some of the individuals, including persons from Yemen, Syria, Mali, and the Democratic Republic of the Congo, who were returned to Morocco had sought to request asylum. In June, Minister of the Interior Fernando Grande-Marlaska testified to the Congress of Deputies that authorities had complied with all legal requirements in returning individuals to Morocco, and that they had worked with UNHCR, the Spanish Red Cross, and the Spanish Commission for Refugee Assistance (CEAR) to identify vulnerable individuals and prevent their expulsion. A UNHCR spokesperson subsequently clarified to the press that the agency was unable to confirm that all returns were done in accordance with the law and that it had received reports that some of those returned had intended to seek asylum and were forcibly, sometimes violently, returned to Morocco.

Media outlets and organizations that work with refugees reported that as many as 2,000 unaccompanied minors entered Ceuta on May 17-18. Many appeared to return to Morocco voluntarily in the following days, while approximately 700 minors remained in government custody. In August authorities began deporting minors after reaching an agreement with Morocco for their return. An estimated 55 minors were returned to Morocco. The ombudsman and rights groups condemned the returns, claiming they violated the UN Convention on the Rights of the Child as well as the country's immigration laws. The National Court issued a temporary stay August 17 to stop the returns. In September the government

formed an interministerial working group to coordinate and establish a protocol for the returns of minors in accordance with the law.

CEAR continued to urge the government to apply the section of the law that allows for the receipt of asylum petitions at Spanish embassies and consulates abroad. The country has a policy to only accept asylum petitions within Spanish territory.

UNHCR reported that 35,728 individuals had filed asylum claims in the country as of the end of June, a decrease of 45 percent from the same period in 2020. Of these, Venezuelans and Colombians accounted for 33 percent of applications. As of August 31, a total of 6,488 Venezuelans applied for asylum in the country, which at 18 percent of all applicants constituted the largest group of asylum seekers. There was a notable increase in applications from citizens of Mali (10 percent of total applications), Morocco (9 percent), and Senegal (7 percent). UNHCR reported a 9 percent asylum acceptance rate as of September 30, and a 28 percent protection rate, which includes refugee status, subsidiary protection, and persons granted authorization to stay for humanitarian reasons. According to the Ministry of the Interior, in 2020 the primary reasons for approving asylum applications were political opinions (33 percent), gender (31 percent), sexual orientation and gender identity (16 percent) and membership of a particular social group (13 percent).

According to CEAR's 2021 annual report, 88,762 individuals applied for asylum in the country in 2020, an almost 25 percent decrease from 2019. The government granted 1,401 applications for subsidiary protection and offered 45,262 individuals international protection for humanitarian reasons, primarily Venezuelans (see Temporary Protection). Large percentages of applicants from Colombia (99 percent), El Salvador (91 percent), Nicaragua (75 percent), and Honduras (89 percent) did not receive either asylum status or other protection. CEAR reported the country's overall recognition rate for international protection in 2020 was 5 percent.

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.

Refoulement: Bilateral agreements with Morocco and Algeria allow Spain to deport 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 2020 when the border was closed due to the COVID-19 pandemic. Very few repatriations have occurred since that time, and the government did not report any official 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.

Local NGOs and UNHCR reported several cases of refoulement by authorities in the Spanish archipelagos of Alhucemas and Chafarinas. The NGO Walking Borders accused the government of the refoulement of 41 individuals from Tierra Island in the Alhucemas archipelago in August, including individuals from Burkina Faso, Mali, and the Democratic Republic of the Congo. The ombudsman issued a reminder to the government about its legal obligations to process asylum claims following reports the government expelled approximately 125 individuals from Penon de Velez de la Gomera in the Chafarinas Islands to Morocco on September 20.

Abuse of Migrants, Refugees, and Stateless Persons: Migrants from countries without a return agreement and those who demonstrated eligibility for international protection were provided housing and basic care for up to six months as part of a government-sponsored reception program managed by various NGOs. Due to the large numbers of irregular arrivals to the Canary Islands in 2020, the government partnered with the International Organization on Migration (IOM), Spanish Red Cross, and local NGOs Accem, the Cepaim Foundation, and White Cross to implement the “Canaries Plan.” In December 2020 the Ministry of Inclusion, Social Security, and Migration (Ministry of Inclusion) established six large reception centers throughout the Canary Islands, administered by the organizations. UNHCR reported an increase in access to basic services as a result but pressed for the government to regulate the centers formally, along with the CETIs in Ceuta and Melilla.

UNHCR, NGOs, and the Office of the Ombudsman cited concerns about the treatment of unaccompanied and accompanied minor migrants. There was insufficient space at reception centers for unaccompanied minor migrants in Ceuta, and media outlets reported that several hundred minors were living on the streets. The Law on the Protection of Children that came into force on June 25 forbids the practice of allowing a forensic scientist to examine a child's genitals as part of the age-determination process. In May and June, the Supreme Court issued three separate rulings requiring authorities to prioritize any documentation an individual presents in deciding about his or her age, even if authorities believe the individual may be older than the documentation suggests.

Freedom of Movement: The government limited freedom of movement for many migrants by prohibiting their transfers from the Canary Islands to reception centers on the mainland. In April a judge in the Canary Islands ruled that migrants with a passport or a request for international protection can travel to the mainland in accordance with pandemic-related health restrictions. Since then, UNHCR and NGOs reported freedom of movement for migrants who arrived in the Canary Islands improved. UNHCR reported that the slow rate of processing of asylum claims in Ceuta and Melilla prevented some individuals from being able to exercise their freedom of movement in a timely manner.

The lack of space at COVID-19 quarantine centers in the Canary Islands meant that some migrants were kept in initial police custody in CATEs longer than the 72 hours permitted under the law.

Employment: NGOs noted that minor migrants who turned 18 had trouble navigating the process of obtaining employment authorization and were often left without resources to support themselves. On October 19, the Council of Ministers approved a change to the country's immigration regulations to allowing minor migrants work authorizations starting at age 16. The change also facilitates work authorization for undocumented migrants between ages 18 and 23 who had previously been unaccompanied minors under the care of the government before the new regulations entered into effect.

Access to Basic Services: In accordance with the law, all minors under the age of 16 must be enrolled in school. In the Canary Islands, many of the minor migrants

were still not enrolled in school more than one year after their arrival to the country.

The Spanish Red Cross reported improvements in managing COVID-19 cases at many points of entry for irregular migrants throughout the country. Many, but not all, autonomous communities offered COVID-19 vaccinations to irregular migrants, even though they are not registered in the national health system. Caritas Spain reported that emergency aid services were not accessible to migrants in all autonomous communities.

Durable Solutions: The government accepted refugees for relocation and resettlement and aided through NGOs such as CEAR, Accem, and the Spanish Red Cross. In August and September, the government participated in the airlift evacuations of approximately 2,100 at-risk Afghans from Kabul. The government resettled an estimated 1,600 of these individuals within the country. The Spanish Red Cross reported that all Afghans received during this period were processed within the required 72-hour period and moved to reception sites or third countries.

On October 19, the Council of Ministers approved a change to immigration regulations to regularize the status of unaccompanied minor migrants. Officials will issue residency permits to unaccompanied minor migrants if no safe path to return is identified within three months. The Ministry of the Interior said in a statement that the change would reduce the marginalization of young migrants, particularly those who reach the age of maturity while their cases are pending and would benefit 15,000 children and young adults.

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 provided temporary protection to individuals whose applications for asylum were pending review or who did not qualify as refugees. The Ministry of the Interior's Office of Asylum reported that in 2020 the government granted international subsidiary protection to 1,401 individuals. Additionally, the government granted one-year residency permits (which can be extended to two years) on humanitarian grounds to 45,262 applicants (36 percent of applicants whose cases were resolved), most 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 provides humanitarian protection to Venezuelans who do not qualify for other types of international protection in the country, including asylum. As of August 31, a total of 6,488 Venezuelans applied for asylum in the country, which at 18 percent of all applicants, constituted the largest group of asylum seekers. Humanitarian protection provides residency and work authorization for one year, which can be extended.

g. Stateless Persons

According to UNHCR, at the end of 2020, 5,914 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 two national elections in 2019 to have been free and fair. Regional elections in two of the country's most populous and politically and economically influential regions, Catalonia (February) and Madrid (May), were considered 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. A cabinet reshuffle in July resulted in 14 women of a total of 23 ministers, including all three vice presidents, the largest percentage of female cabinet members in the country's history.

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. There were some reports of government corruption during the year.

Corruption: 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.

Following a three-year investigation, in July the National Court formally charged several former officials from the Popular Party as well as several former high-ranking police officials in a high-profile case known as the “Kitchen” case. The defendants, who included former minister of the interior Jorge Fernandez Diaz, faced charges of discovery and disclosure of confidential information, obstruction of justice, failure to prosecute criminal activity, bribery, undue influence, and embezzlement of public funds. The case centered on the alleged illegal surveillance in 2013 of former Popular Party treasurer Luis Barcenas. According to the investigating judge, the defendants sought to steal from Barcenas, then in prison related to another corruption case, confidential documents regarding the party leadership's involvement in illegal election financing and other illicit activities. A trial date was not set by the end of the year.

Section 5. Governmental Posture Towards 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 is appointed by parliament but serves in an independent oversight capacity. On November 18, Angel Gabilondo became the national ombudsman after a four-year vacancy in the position.

Section 6. Discrimination and Societal Abuses

Women

Rape and Domestic Violence: The law criminalizes rape, including spousal rape; it does not distinguish between rape 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 at the time of trial. 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 qualification 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 31 percent increase 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 22,724 verdicts in gender-based

violence cases in 2020 with a 60 percent conviction rate.

According to the government's delegate against gender-based violence, as of September 25, partners or former partners were responsible for the deaths of 35 women. According to the General Council of the Judiciary, 26,551 cases of gender-based violence were open for prosecution in 2020. There were 35,001 allegations of gender-based violence in the first quarter of the year. Police alerted female survivors of gender-based violence of any changes in prison sentences of their attackers. Independent media and government agencies generally paid close attention to gender-based violence.

NGOs 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. The lack of clear sentencing guidelines meant sentences for sexual crimes were almost entirely at the discretion of the judge and could vary widely.

In July the Catalonia Superior Court reduced the sentence of a man convicted in April for his role in a 2019 gang rape case from 31 to 22 years' imprisonment. In April the Barcelona High Court also sentenced two other defendants to 13 years each for their role. A fourth defendant was acquitted.

In July a court in Malaga announced it was investigating a man on charges of attempted murder, illegal detention, humiliation, assault, coercion, and habitual mistreatment related to an incident in January in which the man was accused of throwing sulfuric acid on his former girlfriend and her friend. Both survivors suffered severe injuries, with the former girlfriend suffering from burns on more than 50 percent of her body. The investigation continued at year's end.

A 24-hour toll-free national hotline advised battered women on finding shelter and other local assistance. In March the government's delegate against gender-based violence announced the hotline would expand its assistance to include legal advice, psychological assistance and referrals, and social worker assistance for all forms of

gender-based violence in 53 languages. The delegate also announced the creation of a WhatsApp number and other expanded services for women with auditory or visual disabilities.

In April the Council of Ministers approved funding to establish at least one 24-hour sexual assault crisis center in each of the country's 50 provinces as well as Ceuta and Melilla by 2023. The centers would not require victims to formally accuse their attackers or to participate in prosecutions.

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. The law punishes those who subjugate others to FGM/C with prison sentences of between six and 12 years, with additional penalties if the victim is a minor or disabled.

In January the NGO Dimbe, which is dedicated to bringing awareness to and promoting the eradication of FGM/C, warned that 4,500 girls in the Canary Islands were at risk of being subjected to FGM/C. According to Dimbe, girls, primarily of African origin, might be taken to their home countries under the pretext of a vacation and then subjected to the procedure. There were also reports of the procedure taking place in the Canary Islands.

The *State Plan against Gender Violence* includes FGM/C as a form of gender-based violence. In its 2020 study *Female Genital Mutilation in Spain*, the government's delegate against gender-based violence, prepared in collaboration with the Wassu Foundation and the Autonomous University of Barcelona, noted girls from sub-Saharan African migrant families were at risk of FGM/C. There is a protocol for medical professionals for the identification, treatment, and prevention of FGM/C, but there is no specific national-level plan for combatting FGM/C. Some autonomous communities have their own plans for combatting FGM/C.

In its 2020 report *Estimation of Girls at Risk of Female Genital Mutilation in the European Union*, the European Institute for Gender Equality noted that in 2018, the absolute number of girls at risk of FGM/C in the country had decreased despite an increase in the number of migrant girls from FGM/C-practicing countries. A local press outlet reported that in most cases the victims were taken to their

ancestral country of origin for the procedure, although in at least one case a victim was taken to Morocco because of difficulties in travelling due to the COVID-19 pandemic. The EU report estimated that 15 percent of girls under 18 years old living in the country were at high-risk of being subjugated to FGM/C and 9 percent were at lower risk. High-risk and low-risk scenarios were determined by country of origin and how many generations ago the family immigrated to the country. According to the government's delegate against gender-based violence, the autonomous communities with the highest numbers of women and girls at risk for FGM/C were Catalonia, Andalusia, and Madrid.

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. Harassment continued to be a problem, according to media reporting. In the Ministry of Equality's *Survey of Violence against Women* in 2020, the latest year for which information was available, more than 40 percent of women reported having been sexually harassed over their lifetime, with more than 17 percent reporting harassment by a work colleague. More than 15 percent of the women surveyed reported having been the victim of stalking.

In February more than 20 students and alumni of the Barcelona Institute of Theater complained about years of sexual harassment and abuse of power by faculty. In October the Barcelona Prosecutor's Office opened a criminal investigation into the allegations against one of the teachers, who was accused of inappropriate sexual behavior and sending sexually explicit material to students. The Barcelona Institute of Theater removed the teacher from his position in March and opened disciplinary investigations against at least two other teachers.

Reproductive Rights: There were no reports of coerced abortion or involuntary sterilization on the part of government authorities. The government provided access to sexual and reproductive health services for survivors of sexual violence. Emergency contraception was available as part of clinical management of rape.

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

Systemic Racial or Ethnic Violence and Discrimination

The law criminalizes the promotion of hate or discrimination against individuals or groups based on, inter alia, their race, ethnicity, or national origin. The punishment is one to four years' imprisonment and a fine. The law also considers motives based on race, ethnicity, or national origin to be an aggravating circumstance in other crimes. The government generally effectively enforced the law. The Ministry of the Interior's *Action Protocol for Law Enforcement Agencies on Hate Crimes* provides for the equality of vulnerable groups and prevents discrimination against them based on, inter alia, national origin and ethnicity. The policy orders law enforcement officers to avoid the use of terms or expressions that may be perceived as offensive or pejorative.

The Ministry of the Interior reported 485 hate crimes linked to racism and xenophobia in 2020, a 5.8 percent decrease from 2019. The regions of Melilla, Basque Country, Navarre, and Ceuta had the highest numbers of hate crimes according to the ministry's data.

Activists for racial equality said there were racist and xenophobic motives behind the June shooting death of Moroccan national Younes Bilal in Mazarron (Murcia). Bilal died after being shot three times during an altercation, during which witnesses said the shooter used racial slurs. Police opened a homicide investigation with racism as a possible aggravating factor. Also in June, Moroccan Momoun Koutaibi was left in a coma after being assaulted by a coworker in an attack in Alhama de Murcia that witnesses and his family said was racially motivated. There were reports of attacks against mosques in Murcia in February and July. Many of the incidents also included anti-Muslim rhetoric. The Ministry of Equality's Council for the Elimination of Racial and Ethnic Discrimination denounced the events in Murcia as racist and xenophobic.

NGOs expressed particular concern about racist and xenophobic rhetoric toward unaccompanied minor migrants and reported that opposition Vox party promoted and amplified such rhetoric. In February the Madrid prosecutor's office began a hate crime investigation into the right-wing group Frontal Bastion for allegedly spreading false information about minor migrants, including linking them to increased street crime and sexual assault. In July a Madrid court closed the hate

crime case brought by the public prosecutor against the Vox party for its campaign poster for the May 4 Madrid regional elections that depicted unaccompanied immigrant minors as a menace and drain on public resources. Various rights organizations and political parties denounced the advertisement as racist and xenophobic. In dismissing the case, the court ruled that unaccompanied immigrant minors represent a “clear social and political” problem even if the figures cited in the advertisement were inaccurate.

There were multiple instances of soccer fans using racist insults against Black soccer players, including players from soccer clubs in Madrid, Barcelona, and Valencia. In May, Minister of Equality Irene Montero and Minister of Social Rights and Agenda 2030 Ione Belarra met with the head of the Spanish soccer federation la Liga to discuss preventing and fighting racism in soccer. On November 30, the Council of Ministers agreed to increase funding to support victims of racial discrimination by expanding staffing to address the issue, legal assistance to victims, and the racial discrimination hotline’s hours.

Catalan law enforcement noted the increase of right-wing extremism, especially white nationalism, in the region, including the increased use of social media as a tool to amplify right-wing messaging of conspiracy theories.

The Romani community was the largest minority group in the country, with an estimated 750,000 persons. There were three representatives of Romani heritage in the Congress of Deputies. The Gitano Secretariat Foundation (FSG) reported significant integration challenges for the Romani community, including high rates of poverty, unemployment (especially for Romani women), and children dropping out from secondary education. The FSG’s 2020 annual report on discrimination against the Romani community reported 425 cases of discrimination, a 27 percent increase over the previous year. FSG reported numerous instances of anti-Romani messaging on social media, but a decrease in anti-Romani sentiment in traditional media. On November 2, the government approved the *2021-2030 National Strategy for the Equality, Inclusion, and Participation of the Romani People*. The strategy seeks to support the social integration of the Roma into broader society, paying special attention to those living in situations of poverty and social exclusion, with specific provisions related to improving access to education, employment, health, and housing as well as promoting gender equality and fighting

discrimination against the Romani people.

In a study released in February, the Ministry of Equality found more than half of those identifying as a racial minority felt discriminated against in 2020. Racial discrimination was analyzed in public health, administrative services, housing, education, and treatment by the police. Perceived discrimination increased in every area since the last comparative study in 2013. While discrimination rates varied, the main populations reporting having experienced discrimination included sub-Saharan African, North African, Romani, South Asian, and East Asian populations. Of Black residents, 78 percent reported experiencing discrimination based on skin color.

Children

Birth Registration: Citizenship is derived from one's parents. 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 Spanish citizenship.

Child Abuse: The Law for the Protection of Children, the country's first comprehensive law to protect children and adolescents from violence, entered into force in June. The law seeks to avoid revictimization by requiring children under 14 to provide testimony only once. It also extends the period for reporting sexual abuse against children and adolescents, permitting victims to initiate cases up to when they are 35 years old, and the statute of limitations does not expire until they are 40, or 55 years of age in especially grave cases. The law confers legal recognition of children as victims of gender-based violence in instances of violence between a parent and a parent's partner. Any citizen who has knowledge of violence against a child is obligated to report it to authorities under the new law. For the first time, children are permitted to file reports of violence without being accompanied by an adult. As part of the new legislation, the government has one year to approve a project for the creation of special courts and prosecutors dedicated to violence against children.

The law provides other protections as well 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 September 25, either a parent or a parent's partner were responsible for the deaths of five children.

In 2020 the ANAR Foundation, dedicated to the protection of children, registered 166,433 requests for assistance and attended to 11,761 serious cases of violence against minors. The foundation reported an increase in physical abuse of minors and reported the COVID-19 pandemic aggravated many of the problems affecting minors.

Child, Early, and Forced Marriage: The minimum age of marriage is 16 years for minors living on their own. Forced marriage is criminalized with fines and prison sentences of between six months and three years, with penalties increasing to prison sentences of five to eight years if the victim is determined to have been a victim of human trafficking. The antitrafficking NGO Project Esperanza stated forced marriages continued to happen in the country. NGOs working with refugees expressed concern about possible forced marriages among migrants. In April police in A Coruna (Galicia) and Cordoba (Andalusia) arrested five individuals on charges of trafficking in persons, illegal detention, and continuous sexual abuse related to a family arranging the forced marriage of their 12-year-old daughter to cover a debt. In July police in Castile-La Mancha arrested five individuals on charges related to the forced marriages of two sisters when they were 14 years old and preparations to forcibly marry a third sister aged 12.

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.

Child sex trafficking is criminalized and was prosecuted under the law. The penalty for child sex trafficking is five to eight years' imprisonment. The penalty for recruiting children or persons with disabilities into commercial sex is imprisonment from one to five years. The penalty for subjecting children to commercial sex is two to 10 years' imprisonment, depending on the age of the victim and the existence of violence or intimidation. The law prohibits using a minor "to prepare any type of pornographic material" as well as the production, sale, distribution, display, or facilitation of 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.

In February a court in Navarre sentenced Daniel Lucia, owner of a modeling agency, to 115 years' imprisonment for the unauthorized filming of 129 women and girls without their clothing, 48 of whom were minors 13-17 years old. Media outlets reported Lucia was likely to serve five years in prison based on the law, which allows a convicted person to serve concurrently sentences for similar crimes. Lucia's victims criticized the sentence as too lenient.

In September police arrested 15 individuals in multiple cities throughout the country in connection with possession and distribution of child pornography on social media platforms. Law enforcement identified two child victims during the investigation.

In January the Society of Jesus (Jesuits) of the Roman Catholic Church publicly recognized that at least 81 minors and 37 adults had suffered sexual abuse by members of the Jesuit order in the country since 1927. Following the announcement, seven additional orders of the Roman Catholic Church reported they had carried out or were in the process of investigating past cases of abuse. The Church stated it was open to compensating victims.

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.

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 commercial sex 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.

In February the Madrid prosecutor's office opened an investigation into an anti-Semitic demonstration praising the Blue Division, the military unit dictator Francisco Franco sent to support Hitler's invasion of the Soviet Union during World War II. On February 15, approximately 300 neo-Nazis marched through several streets of Madrid, made the Nazi salute, and sang fascist-themed songs. The Federation of Jewish Communities of Spain, various national and local government agencies, and the Israeli embassy in Madrid condemned the demonstration.

The Ministry of the Interior's Office on the Prevention of Hate Crimes reported three cases of anti-Semitism in 2020. 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 November police arrested a man for defacing a United Left party office in San Andres del Rabanedo (Castile and Leon) in 2020 by breaking windows and painting swastikas and anti-Semitic language on the office facade. Authorities called the man, who was arrested for a similar incident in August, a "far-right extremist."

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 mandates that persons with disabilities can access education, health services, public buildings, and transportation on an equal basis with others. While the government generally enforced these provisions, levels of assistance and accessibility varied among regions. There were reports of delays in creating equal access to some facilities. In July the mother of a girl in a wheelchair told press that they had been waiting three years for the Madrid regional government to install an elevator in the girl's high school. The law requires government information and communication is provided in accessible formats, and the government generally enforced these provisions effectively.

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.

The Minister of the Interior's *Action Protocol for Law Enforcement Agencies on Hate Crimes* guarantees the equality of and prohibits discrimination against vulnerable groups based on, inter alia, intellectual, and physical disabilities. The ministry published a *Guide for Working with Victims of Hate Crimes with Developmental Disabilities* to help police officers better assist persons with disabilities in understanding, reporting, and protecting themselves from hate crimes.

In May a royal decree entered into force promoting employment access into the general labor market for persons with intellectual disabilities as well as deaf and hearing-impaired persons. According to the State Employment Public Service's 2020 report, the latest year for which data were available, 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.

In the 2018-19 school year, the latest year for which data was available, 83 percent of children with disabilities attended schools with peers without disabilities and 17 percent attended special education centers. Children with disabilities did not attend school at significantly lower rates than other children. In January a new education law entered into force that seeks to integrate most children with disabilities into regular schools in accordance with the UN Convention on the Rights of Persons with Disabilities within a 10-year period, reserving special education centers for children with severe disabilities. The Spanish Confederation of Persons with Physical and Organic Disabilities (CERMI) raised concerns that there was no specific plan for how the government intends to implement and enforce the new law.

In May the parliament approved an amendment to the constitution to affirm the full equality of and protections for persons with disabilities. The amendment states that public authorities shall enact policies to guarantee the full personal autonomy and social inclusion of persons with disabilities. It also confers special protection to persons with disabilities to guarantee they receive the specialized attention they require and can enjoy all the rights the constitution grants to all citizens.

In September a new law entered into force to support persons with disabilities in exercising their legal rights in accordance with the International Convention for Persons with Disabilities. The new law provides for the rights, will, and preferences of persons with disabilities. It abolishes the requirement for persons with disabilities to have a guardian in legal proceedings and instead provides for technical assistance based on everyone's specific needs.

According to the report *The Impact of the COVID-19 Pandemic on Persons with Disabilities* published by the Ministry of Social Rights and Agenda 2030, 66.5 percent of persons with disabilities required social services during the pandemic; however roughly half were unable to get the assistance required. CERMI continued to report significant challenges for persons with disabilities due to the COVID-19 pandemic. The situation for women and girls was particularly difficult, according to CERMI, in part because of caretaker responsibilities, higher rates of poverty, and increased social exclusion.

In February the government's prison authority launched a social insertion program for inmates with intellectual disabilities. The government reported 639 inmates with intellectual disabilities in the country's prison system.

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 one to four years' imprisonment and a fine. 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, queer, and intersex (LGBTQI+) persons an aggravating circumstance in crimes.

The Ministry of the Interior's *Action Protocol for Law Enforcement Agencies on Hate Crimes* provides for the equality of and prohibits discrimination against vulnerable groups based on, inter alia, sexual orientation and identity. The Ministry of the Interior's 2020 report on hate crimes outlined 277 crimes reported to the police based on sexual orientation or gender identity, the second most prevalent reason for hate crimes. Rights organizations reported official figures were significantly lower than incidents reported to various LGBTQI+ rights groups around the country. NGOs expressed concern about a rise in anti-LGBTQI+ hate speech and reported that opposition Vox party promoted anti-LGBTQI+ rhetoric. According to the NGO Kif Kif Association, LGBTQI+ migrants faced "double discrimination" and were particularly targeted by far-right groups.

In June after a young gay man was attacked and beaten by a group of men shouting homophobic slurs in Basauri (Basque Country), thousands of demonstrators protested against violence aimed at the LGBTQI+ community. Basque regional police arrested nine individuals in connection with the attack. The investigation continued at year's end.

Rights groups denounced the July 3 death of Samuel Luiz Muniz, a 24-year-old

gay man. A group of men attacked and beat Muniz outside a nightclub in A Coruna (Galicia). Several of Muniz's friends, who were witness to the assault, claimed the attackers yelled homophobic slurs during the attack. Muniz's death prompted demonstrations against violence aimed at the LGBTQI+ community. Police arrested six individuals in connection with Muniz's death. The investigation was ongoing.

The number of homophobic attacks continued to be a concern in Catalonia. Although the number of aggressions against the LGBTQI+ community remained like previous years, the Barcelona city council denounced increased violence against the LGBTQI+ community. The Observatory against Homophobia of Catalonia reported 80 incidents as of June. According to the Barcelona hate crimes prosecutor, in 2020, for the first time, the largest number of hate crimes offenses reported, at 40 percent, were for discrimination based on sexual orientation or gender identity.

In July the Council of Ministers approved a draft law to allow children 16 years and older to determine their gender identity in the civil registry without parental consent or medical exam and allow children 14 years and older to do so with parental consent. The draft law had significant support from LGBTQI+ and other rights organizations. It was, however, the subject of very intense national debate and significant protests. It was front-page news for weeks.

Other Societal Violence or Discrimination

The Ministry of the Interior's *Action Protocol for Law Enforcement Agencies on Hate Crimes* provides for 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.

According to the Ministry of the Interior, 1,334 hate crimes were reported in 2020, a 17 percent decrease from 2019. Of these, 263 cases involved physical injuries and 327 involved threats.

According to a report from the Observatory for Religious Freedom and Conscience, in 2020 there were 240 instances of religiously motivated violence,

compared with 175 in 2019.

In January the Ministry of the Interior published a *Guide of Good Practices for Reporting Hate Crimes*. The guide reminds the public that hate crimes can be reported to the national police or Civil Guard at their offices, through their emergency numbers, or through ALERTCOPS, a free mobile application. The public can also report such crimes to the regional prosecutor's office for hate crimes or to the corresponding court. The guide encourages citizens to include in their complaints detailed descriptions of the perpetrator, a medical report in case of injuries, photographs, or videos if available, and information about any possible witnesses.

In September the Catalan regional police created a Central Unit for Hate Crimes and Discrimination to investigate and prosecute hate crimes committed in the region. Most of the hate crimes in Catalonia during the year were homophobic attacks or attacks against race, ethnicity, or nationality.

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 fail. 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. In April the government repealed a section of the penal code that criminalized making threats against workers who chose not to participate in labor strikes. The government considered this protection against threats to be covered under the broader provisions in the penal code regarding coercion.

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 than on forced labor. The government had an insufficient

number of labor inspectors and therefore could not enforce the law effectively in all instances. Penalties for applicable laws were commensurate with those for other analogous crimes, such as kidnapping.

In December the government approved the first *National Plan against Forced Labor* in compliance with the 2014 Protocol from the International Labor Organization. The goal of the three-year plan is to eradicate forced labor inside and outside the country.

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. Caritas Spain reported that the COVID-19 pandemic worsened the condition of employment and in some cases, led to instances of forced labor.

In January police in Alicante (Valencia) arrested a couple for exploiting nine seasonal workers in forced labor. The couple kept part of the workers' wages, forced them to live in poor conditions in an industrial warehouse, and required them to work seven days a week. In March police arrested a couple in Valladolid (Castile and Leon) for holding three undocumented migrants in slave-like conditions and forcing them to work for very low pay on their farm. In April police arrested 11 individuals in Albacete (Castile-La Mancha) for using agricultural companies to exploit migrant workers, mostly from Morocco. In May, Catalan regional police arrested eight individuals believed to be part of a Chinese-origin organized crime group on drug and human trafficking charges. The individuals were accused of keeping 10 workers in slave-like conditions in industrial marijuana cultivation warehouses for more than a year.

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 in agriculture, mining, and construction. 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.

Due to insufficient resources, the ministry did not always effectively enforce the law on small farms and in family-owned businesses, where some instances of 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 2019, the most recent year for which data was available, the Ministry of Labor detected 32 violations of child labor laws that involved 40 minors between ages 16 and 18 and 18 violations involving 20 minors younger than age 16. The fines amounted to more than 315,000 euros (\$362,000). In 2019 there were 33 violations related to the safety and health of working minors involving 35 minors, with penalties of more than 353,000 euros (\$406,000).

There were reports that criminals exploited children in child sex trafficking (forced commercial sex) 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 (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 did not always effectively enforce this law. Penalties are 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. In June the National Statistics Institute reported that in 2019, the most recent year for which data was available, women earned on average 80.5 percent of what their male counterparts earned, though the gap narrowed when considering similar positions in the same occupation, type of contract, and type of schedule. Women comprised 64 percent of those whose hourly wage was two-thirds or below the average hourly wage.

In April labor inspectors in La Rioja, citing discrimination, fined an agricultural firm for firing four employees who had contracted COVID-19.

e. Acceptable Conditions of Work

Wage and Hour Laws: The law provides for a national minimum wage, which barely met the poverty level in 2020. In June 2020 the government approved an increase to the minimum living income, a monthly stipend provided to those at a certain level of poverty, which sought to guarantee a monthly income of between 461 euros (\$530) and 1,015 euros (\$1,167) 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 Ministry of Labor's Inspectorate of Labor and Social Security is responsible for enforcement of wage and hour laws. Infractions of wage, hour, and overtime laws as well as social security benefits for workers were most common in the informal economy. In 2019, the most recent year for which data was available, the most common infraction identified by the inspectorate was employment contract violations, followed by hour and overtime violations and wage violations.

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.

In June, Second Vice President and Minister of Labor Yolanda Diaz met with

women who worked as seasonal strawberry pickers in Huelva (Andalusia). The women reported labor exploitation, including poor working conditions, gender discrimination, degrading treatment and abuse, as well as noncompliance on the part of their employers in terms of pay, working hours, and housing conditions. The Ministry of Labor modified its regulations to allow its inspectors to assess work housing conditions.

Occupational Safety and Health: The National Institute of Safety and Health in the Ministry of Labor has technical responsibility for developing OSH standards. OSH standards are appropriate for the main industries in the country and labor inspectors generally enforce OSH standards by identifying unsafe conditions. 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 and Social Security has responsibility for enforcing OSH laws through inspections and legal action if inspectors find infractions. Inspections for OSH were conducted by the same division that inspects wage and hour compliance. Inspectors have the authority to make unannounced inspections and initiate sanctions. Due to a lack of resources, the inspectorate had an insufficient number of inspectors and therefore, could not enforce the law in all instances. The penalties were commensurate with those for crimes such as criminal fraud or willful obstruction of justice. There were 89,230 violations identified in 2019, the latest year for which data was available. Unions criticized the government for devoting insufficient resources to inspection and enforcement. The most common OSH workplace violations were in the construction sector.

In 2020 the Ministry of Labor recorded 505,528 workplace accidents, of which authorities considered 3,643 as serious but nonfatal. There were 634 fatal accidents, 182 fewer than in 2019.

Through July the Ministry of Labor recorded 317,258 workplace accidents, of which 329 were fatal accidents, 17 fewer than the same period in 2020.