

SPAIN 2017 HUMAN RIGHTS REPORT

EXECUTIVE SUMMARY

The Kingdom of Spain is a parliamentary democracy headed by a constitutional monarch. The country has a bicameral parliament, the General Courts or National Assembly, consisting of the Congress of Deputies (lower house) and the Senate (upper house). The head of the largest political party or coalition usually is named to head the government as president of the Council of Ministers, the equivalent of prime minister. Observers considered national elections held in June 2016 to be free and fair.

Civilian authorities maintained effective control over the security forces.

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

The government generally took steps to prosecute officials, both in the security services and elsewhere in the government, who committed abuses. In some instances officials engaged in corruption and created the impression of impunity.

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

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

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

There were two high-profile terrorist attacks during the year. On August 17, Younes Abouyaaqoub drove a van onto the pavement of Barcelona's La Rambla street, and struck and killed 15 persons. In his escape the driver killed another person. On August 21, police shot and killed Abouyaaqoub when he resisted arrest. On August 18, Houssaine Abouyaaqoub, Omar Hichamy, Mohamed Hichamy, Moussa Oukabir, and Said Aalla drove a car into another crowd in Cabrils and killed one person. Police shot and killed the five attackers. Police later arrested four other men in connection with the attacks.

b. Disappearance

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

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

The constitution and laws prohibit such practices. There were reports of police mistreatment; courts dismissed some of the reports.

According to the nongovernmental organization (NGO) Coordinator for the Prevention of Torture, in 2016 there were 117 reports of mistreatment of persons in custody that involved 259 persons. In 2015 there were 128 reports of mistreatment that involved 232 persons.

On October 1, the regional government of Catalonia held a referendum on independence that the national court previously declared unconstitutional. On orders of the Catalan Supreme Court, police units (consisting of National Police, Civil Guard, and the Catalan regional police, Mossos d'Esquadra) attempted to close illegal polling stations and seize illegal voting material. The Catalan regional government alleged that more than 800 persons were injured in clashes with police, and police unions reported that more than 400 police officers were injured. On October 2, several judges opened an investigation into the actions of Mossos d'Esquadra for allegedly failing to assist National Police and Civil Guard units. On October 12, Human Rights Watch (HRW) alleged an "excessive use of force" against protesters by police during the event.

Prison and Detention Center Conditions

Prison and detention center conditions mostly met international standards. The government operated all detention facilities.

The UN Committee for the Prevention of Torture, NGOs, the national police union, and an association of judges criticized Internment Centers for Foreigners (CIEs) for a variety of reasons, including alleged violation of human rights, overcrowding, prison-like treatment, and lack of interpreters. The law sets the maximum time for detainees in CIEs at 60 days. Only judges have the authority to send individuals to CIEs.

Physical Conditions: There were no major concerns in prisons and detention centers regarding physical conditions, although several organizations alleged that overcrowding was a problem in some CIEs.

Independent Monitoring: The government generally permitted monitoring by independent nongovernmental observers, including the Coordinator for the Prevention of Torture and the UN Human Rights Committee, in accordance with their standard modalities.

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/her arrest or detention in court, and the government generally observed these requirements.

Role of the Police and Security Apparatus

Police forces include the national police and the paramilitary Civil Guard (both of which handle migration and border enforcement under the authority of the national Ministry of the Interior) as well as regional police under the authority of the Catalan and the Basque Country regional governments.

Civilian authorities maintained effective control over all police forces and the Civil Guard, and the government generally has effective mechanisms to investigate and punish abuse. There were no reports of impunity involving the security forces during the year.

The constitution provides for an ombudsman to investigate claims of police abuse. In 2016 the ombudsman received eight complaints for police mistreatment and 46 for incorrect police treatment. These figures represented a decrease in number cases of police abuse reported in prior years.

Arrest Procedures and Treatment of Detainees

The law provides that police may apprehend suspects for probable cause or with a warrant based on sufficient evidence as determined by a judge. With certain exceptions, police may not hold a suspect for more than 72 hours without a hearing. In certain rare instances involving acts of terrorism, the law allows authorities, with the authorization of a judge, to detain persons for up to five days prior to arraignment. These rights were respected. Authorities generally informed detainees promptly of the charges against them. The country has a functioning bail system, and the courts released defendants on bail unless they believed the defendants might flee or be a threat to public safety. If a potential criminal sentence is less than three years, the judge can decide to impose bail or release the

accused on their own recognizance. If the potential sentence is more than three years, the judge must set bail. The law provides detainees the right to consult a lawyer of their choice. If the detainee is indigent, the government appoints legal counsel. There were at times delays of up to several hours between the time a detained person first requested a lawyer and the time the lawyer arrived at the place of detention.

In certain rare instances involving acts of terrorism, a judge may order incommunicado or solitary detention for the entire duration of police custody. The law stipulates that terrorism suspects held incommunicado have the right to an attorney and medical care, but it allows them neither to choose an attorney nor to see a physician of their choice. The court-appointed lawyer is present during police and judicial proceedings, but detainees do not have the right to confer in private with the lawyer. The government continued to conduct extensive video surveillance in detention facilities and interrogation rooms ostensibly to deter mistreatment or any violations of prisoner rights by police or guards.

Detainee's Ability to Challenge Lawfulness of Detention before a Court: Persons arrested and detained are entitled to challenge in court the legal basis or arbitrary nature of their detention and to obtain prompt release and compensation if found to have been unlawfully detained. They may also appeal to the European Court of Human Rights (ECHR) once domestic avenues for appeal have been exhausted.

e. Denial of Fair Public Trial

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

Trial Procedures

The constitution and law provide for the right to a fair public trial, and the independent judiciary generally enforced this right. Defendants enjoy a presumption of innocence, the right to be informed promptly and in detail of the charges against them, the right to a fair and public trial without undue delay, and the right to be present at their trial. Defendants have the right to an attorney of their choice. If the defendant is indigent, the government appoints an attorney. Defendants and their attorneys have adequate time and facilities to prepare a defense. The government provides free interpretation as necessary from the moment the defendant is charged through all appeals. During the trial defendants may confront prosecution or plaintiff witnesses, and present their own witnesses

and evidence. Defendants cannot be compelled to testify or confess guilt, and they have the right of appeal.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

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

Property Restitution

As a signatory to the Terezin Declaration, the government acknowledges the right to restitution and/or compensation to victims of Holocaust-related confiscations of property. The local NGO Federation of Jewish Communities of Spain reported that there are no existing or prior cases of compensation or restitution in Spain stemming from the Holocaust.

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

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

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Expression, Including for the Press

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

Freedom of Expression: The law prohibits, subject to judicial oversight, actions including public speeches and the publication of documents that the government

interprets as celebrating or supporting terrorism. The law provides for imprisonment for one to four years for persons who provoke discrimination, hatred, or violence against groups or associations on the basis of racist, anti-Semitic, or other references to ideology, religion or belief, family status, membership in an ethnic group or race, national origin, sex, sexual orientation, illness, or disability.

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

On March 29, a 21-year-old woman received a one-year jail sentence for writing 16 “tweets” between 2013 and 2016 and ridiculing the victim of a 1973 Basque Homeland and Liberty terrorist bombing, former prime minister Luis Carrero Blanco.

On August 3, police detained Hamza Yalcin, a journalist with dual Turkish-Swedish nationality, at Barcelona’s El Prat airport after officials found an Interpol “red notice” for his arrest submitted by Turkey for crimes related to terrorism. A second writer with dual German-Turkish citizenship, Dogan Akhanli, was detained August 19 on similar charges, also stemming from an Interpol red notice issued by Turkey. Both were released after the courts rejected Turkey’s requests for extradition, and they left Spain without charges. The RSF criticized the government’s detention of both individuals.

Violence and Harassment: In a September 28 report, the RSF denounced a campaign of social network cyberbullying and the use of propaganda by the Catalan regional government to pressure local journalists and foreign correspondents. It also criticized the national government’s use of threats to intimidate Catalan media in their coverage of the October 1 referendum.

As of the end of 2016, at least three journalists were fined for disobeying the police. An editor for Catalonia Radio was fined 600 euros (\$720) for disobeying police officers in February 2016. Another journalist from television channel *Canal0* received a similar fine for disobeying police during a demonstration and declining to identify herself as a member of the press.

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.

The International Telecommunication Union reported that 81 percent of the population used the internet in 2016.

Academic Freedom and Cultural Events

There were no 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 provides for fines of up to 600 euros (\$720) for failing to notify authorities about peaceful demonstrations in public areas, up to 30,000 euros (\$36,000) for protests resulting in “serious disturbances of public safety” near parliament and regional government buildings, and up to 600,000 euros (\$720,000) for unauthorized protests near key infrastructure. The law also provides for a fine for anyone who refuses to dissolve protests upon police request.

Some NGOs, including Amnesty International and HRW, raised concerns over the use of force by security forces to disperse protesters and persons assembled to vote during the unconstitutional October 1 referendum in Catalonia (see section 1.c.).

Freedom of Association

The constitution and law provide for the freedom of association, and the government generally respected it.

c. Freedom of Religion

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

d. Freedom of Movement

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

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to refugees, asylum seekers, stateless persons, and other persons of concern.

Abuse of Migrants, Refugees, and Stateless Persons: According to Amnesty International, the center for the temporary accommodation of migrants in the enclave of Melilla was “severely overcrowded.” The center accommodating migrants in the enclave of Ceuta was overcrowded.

On July 31, HRW reported that the living conditions of asylum seekers in the police facilities where they were housed in Motril, Almeria, and Malaga were “substandard.” The facilities in Motril and Almeria were large, poorly lit cells with thin mattresses on the floor, while the Malaga police station was an underground jail with no natural light or ventilation.

Protection of Refugees

Refoulement: Lawyers and NGOs reported that in January authorities returned approximately 100 migrants who crossed the border from Morocco to the Spanish enclave of Ceuta to Morocco without first verifying whether they were eligible for asylum.

On October 3, the ECHR ordered the government to pay 10,000 euros (\$12,000) to two of the migrants whom the government returned to Morocco from the enclave of Melilla in 2014. The ECHR ruled that both migrants were returned without being properly identified by authorities and were not given the opportunity to claim asylum to a competent authority.

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. Authorities review asylum petitions individually, and there is an established

appeals process available to rejected petitioners. The law permits any foreigner in the country who is a victim of gender-based violence or of trafficking in persons to file a complaint at a police station without fear of deportation, even if that individual is in the country illegally. Although potential asylum seekers were able effectively to exercise their right to petition authorities, UNHCR stated that Melilla lacked legal assistance for asylum seekers.

According to the national ombudsman, 29 percent of migrants detained in CIEs were deported during 2016.

Safe Country of Origin/Transit: Under EU law the country considers all other countries in the Schengen area, the EU, and the United States to be safe countries of origin.

Access to Basic Services: Under the law migrants have access to emergency services, regardless of legal status. In Melilla asylum seekers usually waited at least two months, or even several months in some cases, before being transferred to mainland Spain; in Ceuta, the waiting period was longer, according to Amnesty International.

Durable Solutions: The government accepted refugees for relocation and resettlement and provided assistance through NGOs such as the Spanish Commission for Refugee Assistance. As of September the country received 2,190 asylum seekers (1,286 through relocation and 1,410 through resettlement) from Italy, Greece, Turkey, and Lebanon. UNHCR noted the country's system for integrating refugees, especially vulnerable families, minors, and survivors of gender-based violence and trafficking in persons, needed improvement.

The government assisted in the safe, voluntary return of failed asylum seekers and migrants to their homes.

Temporary Protection: The government also provided temporary protection to individuals who may not qualify as refugees and provided subsidiary protection to approximately 6,500 persons in 2016.

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 considered national elections in June 2016 to have been free and fair.

On October 1, the regional government of Catalonia attempted to hold a referendum on independence from Spain that the national court previously declared unconstitutional. The Catalan Supreme Court ordered police units to close several polling sites and to seize illegal election material, resulting in injuries to both civilians and police officers. The Catalan regional government claimed that 42 percent of the eligible voting population in Catalonia participated. The national government and courts maintained that the referendum and any subsequent attempt to declare Catalan independence are illegal.

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

Section 4. Corruption and Lack of Transparency in Government

The law provides criminal penalties for corruption by officials, and the government generally implemented these laws effectively. Prosecutions and convictions for corruption were rare compared to the complaints filed, mainly because of the extensive system of legal appeals.

Corruption: Corruption was a problem in the country. In April the Guardia Civil arrested the former president of the Madrid region, Ignacio Gonzalez, for alleged illegal financing of the conservative political Popular Party by diverting funds from Madrid's public water utility. The National Court was investigating 52 persons connected to the case.

Financial Disclosure: Public officials are subject to financial disclosure laws and are required to publish their income and assets on publicly available websites each year. There are administrative sanctions for noncompliance. The Ministry of Finance and Public Administration is responsible for managing and enforcing the law regarding conflicts of interest.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Abuses of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials were often cooperative and responsive to their views.

Government Human Rights Bodies: The national ombudsman serves to protect and defend basic rights and public freedom on behalf of citizens. The ombudsman was generally effective, independent, and had the public's trust.

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

Women

Rape and Domestic Violence: The law prohibits rape, including spousal rape, and the government generally enforced the law effectively. The penalty for rape is six to 12 years in prison. The law also prohibits violence against women and sets prison sentences of six months to a year for domestic violence, threats of violence, or violations of restraining orders, with longer sentences if serious injuries result.

According to the government's delegate for gender violence, as of October partners or former partners were responsible for the deaths of 42 women. According to the General Council of the Judiciary, 47,175 cases of gender violence were prosecuted in 2016. The Observatory against Domestic and Gender Violence reported 142,893 complaints of gender-based violence in 2016. Independent media and government agencies generally paid close attention to gender-based violence.

During the year the Ministry of Health, Social Services, and Equality spent 4.8 million euros (\$5.8 million) on awareness campaigns.

A 24-hour toll-free national hotline advised battered women on finding shelter and other local assistance.

In February police forces started sending text messages to female victims of gender violence alerting them to changes in the prison sentences of their attackers.

In September congress approved the State Plan against Gender Violence, with a budget of one billion euros (\$1.2 billion) over five years, to support efforts to counter the problem.

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

As of July 31, police in Catalonia investigated four cases of FGM/C.

The State Plan against Gender Violence approved in September included FGM/C as a form of gender violence.

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

Coercion in Population Control: There were no reports of coerced abortion, involuntary sterilization, or other coercive population control methods. Estimates on maternal mortality and contraceptive prevalence are available at: www.who.int/reproductivehealth/publications/monitoring/maternal-mortality-2015/en/.

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

Children

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

Child Abuse: As of May 2016, either a parent or a parent's partner killed five minors. In 2016 the NGO Foundation for Children and Youth at Risk received 468,754 telephone calls and emails reporting various forms of child abuse, an increase of 27 percent from 2015.

The Catalan regional government continued to be concerned about the poor conditions of shelters for unaccompanied foreign children in the region.

Early and Forced Marriage: The minimum age of marriage is 16 years for minors living on their own.

The law categorizes forced marriage as a crime punishable by from six months to three years and six months in prison. Forced marriage carries similar penalties as coercion.

As of July 31, Catalan police assisted four victims of forced marriage, one of whom was a minor.

In May a 19-year-old Moroccan woman from Vilanova sought protection. Authorities reported that the woman had travelled to her hometown in Morocco with her parents (both Spanish citizens) and was told she could not leave Morocco unless she agreed to marry a 33-year-old man. The woman was able to escape with her 16-year old sister and return to Barcelona. Authorities placed her parents under investigation for crimes of forced marriage and gender violence. A judge granted the woman a restraining order and issued a no-contact order against her parents.

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

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

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

The commercial sexual exploitation of trafficked teenage girls remained a problem.

The law prohibits child pornography. The penal code criminalizes using a minor “to prepare any type of pornographic material” as well as producing, selling, distributing, displaying, or facilitating the production, sale, dissemination, or exhibition of “any type” of child pornography by “any means.” The penalty is one to five years’ imprisonment; if the child is under the age of 13, imprisonment is five to nine years. The law also penalizes knowingly possessing child pornography.

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

International Child Abductions: The country is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State’s *Annual Report on International Parental Child Abduction* at travel.state.gov/content/childabduction/en/legal/compliance.html.

Anti-Semitism

The Jewish community numbered approximately 40,000-45,000 persons. The descendants of Sephardic Jews expelled from the country 500 years ago have the right of return as full Spanish citizens under a 2016 law due to expire in 2019. In July the secretary of state for justice said that 1,091 Sephardic Jews had obtained Spanish nationality under that law. The Jewish community noted that burdensome financial and administrative requirements such as a self-funded trip to the country made the process more difficult.

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

According to Jewish community leaders and the NGO Movement against Intolerance, anti-Semitic incidents included graffiti on Jewish institutions, although violence against Jews was rare. According to the Ministry of the Interior, there were seven cases of anti-Semitism in 2016, down from nine in 2015. Government institutions promoted religious pluralism, integration, and understanding of Jewish communities and history, but their efforts did not reach all of the country’s autonomous regions.

In 2016, according to a report from the Observatory for Religious Freedom and Conscience, six instances of religiously motivated violence targeted Jews.

On March 15, unknown persons wrote “All Jews to the gas chambers” on a wall in the University of Barcelona.

On June 7, the National Police arrested a 23-year-old woman in Zaragoza for writing messages on social networks that encouraged attacks on Jews. Some of the messages openly incited attacks on Israelis, with phrases such as “stab the Jews.”

In March a neo-Nazi who stabbed five persons in 2014 was sentenced to 33 years in prison.

Trafficking in Persons

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

Persons with Disabilities

The law prohibits, with fines of up to one million euros (\$1.2 million), discrimination against persons with physical, sensory, intellectual, and mental disabilities. The government generally enforced these provisions effectively.

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

Of the 1,272 hate crimes reported in 2016, 262 (20.6 percent) were committed against persons with disabilities.

The law mandates access to buildings for persons with disabilities. While the government generally enforced these provisions, levels of assistance and accessibility varied among regions.

National/Racial/Ethnic Minorities

The Ministry of the Interior reported 416 hate crimes linked to racism (38 percent) in 2016, a decrease of 17.6 percent from 2015. The regions of Catalonia, Madrid, Andalusia, the Basque Country, and Valencia had the highest numbers of hate crimes according to the ministry’s data.

According to Fundacion Secretariado Gitano (FSG), one of the largest NGOs working with Roma in the country, 94 percent of Romani children started school at the compulsory age of three and more than 96 percent of those completed primary education, but the dropout rate in obligatory secondary education still amounted to 64 percent in 2015, compared with 13 percent for the entire country. In 2016 approximately 91 percent of the country's Roma were literate, a gain of almost 5 percent over the previous 10 years. The FSG also noted that, despite many successes, Roma remained marginalized, and they were poorer when compared with other Spaniards due to high dropout rates, poor access to the labor market, and inconsistent use of universal health care. The FSG's 2016 annual report cited 202 cases of discrimination against Roma affecting 334 persons.

Some of the efforts to address problems affecting the Romani community included tougher penalties for hate crimes, specialized prosecutors, a network to assist victims, and a council designed to eliminate racial and ethnic discrimination. The government has various programs, such as the Acceder Program and Learning by Doing Program, to assist young Roma in accessing the job market and to increase their professional skills. More than 87,000 persons benefited directly from such programs, with Roma constituting 67 percent and women 53 percent of the beneficiaries.

The NGO SOS Racism recorded 121 cases of racism in Catalonia in 2016, 80 of which were reported to local authorities and 41 of which went unreported. The NGO found that 28 percent of the cases were perpetrated by public security agents and 17 percent by private individuals.

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

The country's antidiscrimination laws prohibit discrimination based on sexual orientation and gender identity. The law penalizes those who provoke discrimination, hate, or violence based on sexual orientation with up to three years' imprisonment. The law also prohibits denial or disqualification of employment based on sexual orientation and the formation of associations that promote discrimination, hate, or violence against others based on their sexual orientation. The law can consider an anti-LGBTI hate element an aggravating circumstance in crimes.

According to the Ministry of the Interior, 230 hate crimes reported during 2016 were linked to the victim's sexual orientation, an increase of 36.1 percent from

2015. The LGBTI association Arcopoli also asserted that most of the attackers were under the age of 30.

The government fought LGBTI hate crimes by sensitizing police and social workers on sexual diversity, increasing awareness of LGBTI hate crimes, facilitating reporting, and providing better assistance to crime victims. Employing a whole-of-government approach, authorities channeled their efforts in the area through the Spanish Observatory against LGBTI-phobia, an initiative by the Spanish Federation of LGBTI Persons with the support of the Ministries of Health, Social Services, and Equality, and of the Interior.

The Catalan government delivered more than 300 health cards to transgender individuals, allowing them to record the name and gender with which they identify. Other measures included the right to assisted reproduction of lesbian women, the implementation of the protocol against LGBTI-biphobia in schools, and training courses for civil servants, teachers, and geriatric nursing staff. The budget for these activities increased substantially to 1.3 million euros (\$1.6 million).

Other Societal Violence or Discrimination

According to the Ministry of the Interior, 1,272 hate crimes were reported in 2016, a 4.2-percent decline from 2015. Of these, 240 cases involved physical injuries and 205 involved threats. The NGO Movement against Intolerance estimated that 80 percent of hate crimes in the country were unreported.

According to a report from the Observatory for Religious Freedom and Conscience, in 2016 there were 153 instances of religiously motivated violence. An estimated 4.2 percent of hate crimes involved religion. Of the 1,272 crimes reported, 47 were committed against Muslims.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law allows most workers, including foreign and all migrant workers, to form and join independent unions of their choice without previous authorization or excessive requirements. Military personnel and national police forces do not have the right to join unions. Judges, magistrates, and prosecutors may only join bar associations.

The law provides for collective bargaining, including for all workers in the public sector except military personnel, and the government effectively enforced the applicable laws. Public sector collective bargaining includes salaries and employment levels, but the government retained the right to set the levels if negotiations failed.

The constitution and law provide for the right to strike, and workers exercised this right by conducting legal strikes. Any striking union must respect minimum service requirements negotiated with the respective employer. Law and regulations prohibit retaliation against strikers, antiunion discrimination, and discrimination based on union activity, and these laws were effectively enforced. According to the law, if an employer violates union rights, including the right to conduct legal strikes, or dismisses an employee for participation in a union, the employer could face imprisonment from six months to two years or a fine if the employer does not reinstate the employee. These penalties were sufficient to deter violations.

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

Although the law prohibits antiunion discrimination by employers against workers and union organizers, unions contended that employers practiced discrimination in many cases by refusing to renew the temporary contracts of workers engaging in union organizing.

b. Prohibition of Forced or Compulsory Labor

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

The government effectively enforced the law. It maintained strong prevention efforts, although the efforts focused more on forced prostitution than forced labor. Unions complained that the government's resources and inspections were inadequate. The government did not implement new forced labor awareness campaigns. Penalties of five to 12 years' imprisonment were sufficiently stringent to deter violations.

There were cases of employers' subjecting migrant men and women to forced labor in domestic service, agriculture, construction, and the service industry. Unaccompanied children remained particularly vulnerable to labor exploitation, and forced begging.

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

c. Prohibition of Child Labor and Minimum Age for Employment

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

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

The ministry had difficulty enforcing the law on small farms and in family-owned businesses, where child labor persisted. The government effectively enforced laws prohibiting child labor in the special economic zones. In 2015, the most recent year for which data is available, the Ministry of Employment and Social Security detected 12 violations of child labor laws that involved 13 minors under the age of 16 and 15 other violations that involved 15 minors between the ages of 16 and 18. The penalties for violating child labor laws included imprisonment for six to 10 years and were sufficient to deter violations.

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

d. Discrimination with Respect to Employment and Occupation

While the government enforced these laws and regulations, discrimination in employment and occupation occurred with respect to race and ethnicity, gender,

and sexual orientation. The government requires companies with more than 50 workers to reserve 2 percent of their jobs for persons with disabilities.

According to the Barcelona business school EADA, in 2016 the wage gap between men and women in high-level management positions was 17.1 percent. Women occupied 11.8 percent of management positions. The wage gap in midlevel positions was 13 percent, while at lower levels the gap was 11.5 percent.

e. Acceptable Conditions of Work

The national minimum wage barely met the poverty level in 2016. The Ministry of Employment and Social Security effectively enforced the minimum wage.

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

The law provides for a 40-hour workweek, with an unbroken rest period of 36 hours after each 40 hours worked. The law restricts overtime to 80 hours per year unless a collective bargaining agreement establishes a different level. Pay is required for overtime and must be equal to or greater than regular pay.

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

The Inspectorate of Labor has responsibility for enforcing the law on occupational safety and health standards through inspections and legal action if inspectors find infractions. The International Labor Organization estimated that there was one labor inspector for every 10,000 employed persons. In 2015 the inspectorate found 61,385 workplace infractions and obstructions affecting 533,737 workers and fined employers 310 million euros (\$372 million) in penalties, an average of 5,050 euros (\$6,060) per penalty. The penalties were not sufficient to deter violations. Unions criticized the government for devoting insufficient resources to inspection and enforcement. The most common workplace violations included occupational safety standards in the construction sector and infractions of wages and social security benefits on workers in the informal economy. In November 2016 the Circulo de Empresarios, a collection of entrepreneurs, estimated that the informal

economy amounted to 189.5 billion euros (\$227.4 billion) or 18.2 percent of the country's gross domestic product.

Through May the Ministry of Labor and Social Security recorded 205,454 workplace accidents. Authorities considered 203,723 accidents as minor and 1,528 as serious. There were 203 fatal accidents, up from 186 in the same period in 2016.