

# SPAIN 2018 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 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 who committed human rights abuses. In some instances officials engaged in corruption and created the impression of impunity.

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

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

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

#### **b. Disappearance**

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

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

The constitution and laws prohibit such practices. There were reports of police mistreatment; courts dismissed some of the reports. According to the nongovernmental organization (NGO) Coordinator for the Prevention of Torture, in 2017, 1,014 persons were reportedly mistreated in custody and during police operations. In 2016, according to the NGO, 259 persons were reported mistreated.

The increase was related to clashes between security forces and persons assembled to vote during the referendum on independence that took place in Catalonia in October 2017 and which the country's Supreme Court determined was unconstitutional.

In November 2017 the Committee for the Prevention of Torture (CPT) of the Council of Europe (COE) reported receiving some credible allegations of excessive use of force upon detention and of physical mistreatment by police upon arrival at a detention center. In addition the CPT reported "a few allegations" of excessively tight handcuffing. The CPT criticized the practice of restraining inmates, including juveniles, in prisons for periods up to days without adequate supervision and recordkeeping. The CPT also found that in some prisons, inmates, including juveniles, were subjected to excessive solitary confinement.

On February 13, the European Court of Human Rights (ECHR) ordered the government to compensate Igor Portu and Martin Sarasola, members of the Basque terrorist group Fatherland and Liberty (ETA), with 30,000 and 20,000 euros (\$34,500 and \$23,000) respectively for "inhumane and degrading treatment" suffered following their arrest in 2008. The Ministry of Justice ruled that this amount would be deducted from the amount the two individuals owed to victims of ETA terrorist attacks.

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

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

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 a lack of interpreters. The law sets the maximum time for detainees in CIEs at 60 days.

Physical Conditions: There were no major concerns in prisons and detention centers regarding physical conditions, although several organizations alleged that overcrowding was a problem in some CIEs. In November 2017 the CPT reported several inspected detention cells were overcrowded. Poor ventilation remained a problem in most establishments visited. In some cells there was dim lighting, and no natural light in any of the cells the delegation visited.

Independent Monitoring: The government generally permitted monitoring by independent nongovernmental observers, including the Coordinator for the Prevention of Torture and the Subcommittee on Torture of the UN Human Rights Committee, in accordance with their standard operating procedures. On September 6-13, a delegation from the CPT visited detention centers and prisons in Catalonia to investigate conditions there. The report of the visit was not yet public at year's end.

Improvements: According to the Spanish Red Cross and the Office of the UN High Commissioner for Refugees (UNHCR), detention center conditions improved after the government created new migrant reception centers, termed CATE (Center for Temporary Assistance to Foreigners) and CAED (Assistance, Emergency and Referral Centers). The CATEs expanded initial reception facilities available for incoming migrants, and offered more secure facilities and increased access to resources, such as medical assistance. In July the government created CAEDs to receive migrants after the initial 72-hour registration period. The Red Cross and the Spanish Commission for Refugees (CEAR) manage the CAEDs. The Red Cross, UNHCR, and CEAR report that the new facilities allowed migrants greater opportunity to appeal for assistance as victims of trafficking or to apply for asylum.

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

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

#### **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.

The constitution provides for an ombudsman to investigate claims of police abuse. In 2017 the ombudsman did not receive any complaints for police mistreatment.

These figures represented a decrease in the number of cases of police abuse reported in prior years. In 2017, however, the ombudsman's office opened 157 official investigations in its role as the National Mechanism for the Prevention of Torture.

In May, Amnesty International alleged that the public prosecutor's office and Ministry of the Interior were "not fulfilling [their] obligation to pursue investigations" related to the use of excessive force by security forces during the October 2017 referendum on independence in Catalonia that the Supreme Court had ruled unconstitutional.

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

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

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.

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

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

### **Trial Procedures**

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

### **Political Prisoners and Detainees**

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

Although Amnesty International did not take a position on their claims to be considered “political prisoners,” the organization stated “The use of pretrial detention is justified only where there is no alternative measure...and should be subject to regular review by the courts.” In October the organization asked for the immediate release of NGO leaders Jordi Sanchez and Jordi Cuixart, given their status as civil society leaders, stating, “their ongoing detention represents a disproportionate restriction of their rights to freedom of expression and peaceful assembly.”

### **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**

Having endorsed the 2009 Terezin Declaration, the government acknowledges the right to restitution and/or compensation for 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 this right. An independent press, an effective judiciary, and a functioning democratic political system combined to promote freedom of expression, including for the press.

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

The law penalizes downloading of illegal content and use of unauthorized websites, violent protests, insulting a security officer, recording and disseminating images of police, and participating in unauthorized protests outside government

buildings. The NGO Reporters without Borders (RSF) called the law a threat to press freedom, while the Professional Association of the Judiciary considered it contrary to freedom of speech and information. The Spanish Socialist Workers' Party challenged the law in the Constitutional Court, where a decision was pending.

On March 20, the RSF expressed its concern for the increase in the number of court rulings limiting the freedom of expression with disproportionate censorship and harsh sentences imposed in accordance with the law.

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

An April 24 statement by the RSF alleged that the October 2017 independence referendum in Catalonia, ruled unconstitutional by the Supreme Court, "exacerbated tensions and created a suffocating environment for journalists." The RSF alleged that Catalan authorities increased harassment against "pro-Spanish unity" journalists on social media platforms, while regional police intimidated other journalists.

The Barcelona Hate Crimes Prosecutor's 2017 report documented an increase in the number of hate crimes beginning in October 2017, mostly attributable to political beliefs related to the independence movement. In Barcelona Province, 30.8 percent of 279 registered cases represented hate speech and discrimination against those holding differing political views.

Actions to Expand Freedom of Expression, Including for the Media: On March 13, the ECHR ruled in favor of Enric Stern and Jaume Roura, who in 2007 burned a photograph of the king and were sentenced to 15 months in prison for insulting the crown. The ECHR found the punishment issued by the national court violated their right to freedom of expression and ordered the government to compensate them with 7,200 euros each (\$8,280).

## **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 85 percent of the population used the internet in 2017.

### **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 (\$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 protestors who refuse to disperse upon police request may be fined.

### **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/](http://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 UNHCR and other humanitarian organizations in providing protection and assistance to refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.



Abuse of Migrants, Refugees, and Stateless Persons: The latest report of the National Ombudsman indicated that the center for the temporary accommodation of migrants in the enclave of Melilla was “severely overcrowded.” The center housing migrants in the enclave of Ceuta was also overcrowded.

### **Protection of Refugees**

Refoulement: According to a UNHCR report on April 3, there were cases where migrants who crossed the border from Morocco to the enclaves of Ceuta and Melilla were returned to Morocco without receiving a complete eligibility review for asylum.

Access to Asylum: According to the Ministry of the Interior, by November 30, 59,048 persons arrived in the country illegally via the Mediterranean Sea or land border crossing points in Ceuta and Melilla bordering Morocco, a number higher than the total numbers for 2015, 2016, and 2017 combined.

The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. The country has bilateral return agreements with Morocco and Algeria. Authorities review asylum petitions individually, and there is an established appeals process available to rejected petitioners. The law permits any foreigner in the country who is a victim of gender-based violence or of trafficking in persons to file a complaint at a police station without fear of deportation, even if that individual is in the country illegally. Although potential asylum seekers were able to exercise effectively their right to petition authorities, some NGOs, such as CEAR, and Accem, as well as UNHCR alleged that several migration reception centers lacked sufficient legal assistance for asylum seekers. The NGOs reported that getting an appointment to request asylum could take months. CEAR reported the government granted refugee status to 595 individuals in 2017. This number does not include refugees accepted from Italy, Greece, Turkey, and Lebanon, as part of the EU relocation and resettlement plan.

On April 9, the government granted political asylum to three Turkish citizens requesting protection from persecution related to the 2016 attempted coup against the Turkish government. They were the first Turkish nationals granted asylum by the government in connection with the attempted Turkish coup.

On September 3, in a report from a March 18-24 observation mission in Ceuta and Melilla, the COE issued found the continued use of so-called “hot returns,” whereby migrants are returned without first registering and verifying eligibility for asylum. Lawyers and UNHCR reported that in August authorities returned 116 migrants to Morocco within 24 hours of their arrival after they crossed the border to Ceuta, without first verifying whether they were eligible for asylum. Spanish authorities, the International Organization for Migration, and the Spanish Red Cross asserted the migrants were identified and provided legal counsel under the terms of the country’s migration laws. The return of the migrants was carried out under terms of a 1992 agreement with Morocco that provides for the readmission of third-country nationals who illegally entered Spain from Morocco.

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

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

Durable Solutions: The government accepted refugees for relocation and resettlement and provided assistance through NGOs such as CEAR and Accem. As of April the country received 2,792 refugees (1,359 through relocation and 1,433 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 or the country they came from.

Temporary Protection: The government also provided temporary protection to individuals whose applications for asylum were pending review, or who did not qualify as refugees and asylees. In 2017 it extended subsidiary protection to approximately 4,080 such persons.

## **Stateless Persons**

According to UNHCR, at the end of 2017, 1,596 stateless persons lived in the country. The law provides a path to citizenship for stateless persons. The law includes the obligation to grant nationality to those born in Spain of foreign parents, if both lack nationality or if legislation from neither parent's country of nationality attributes a nationality to the child, as well as to those born in Spain whose parentage is not determined.

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

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

#### **Elections and Political Participation**

Recent Elections: All national observers considered national elections in 2016 to have been free and fair.

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

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

The law provides criminal penalties for corruption by officials, and the government generally implemented 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. On May 24, the National Court sentenced dozens of individuals on corruption charges, including several former officials from the Popular Party (PP) and the party's former treasurer, Luis Barcenas. While not directly implicated, then president Mariano Rajoy testified as a witness in the trial. In its ruling the court questioned the credibility of Rajoy's official testimony in which he denied any knowledge of illegal party financing. The links to corruption and doubts regarding Rajoy's testimony led to a congressional vote of no confidence in June, culminating in the removal of Rajoy's PP government on June 1.

On June 11, the National Court continued sentencing officials tied to a related illegal party financing case, imposing penalties on 18 of 20 defendants from the PP's Valencia branch. The accused included the former PP secretary general and deputy secretary general for Valencia. A National Court judge found the defendants guilty of electoral crimes, false documentation, and misappropriation of public funds.

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

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

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

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

On February 28, the COE's Committee against Racism and Intolerance (ECRI) criticized the Council for the Elimination of Racial and Ethnic Discrimination in the ombudsman's office, for not replacing its president after he resigned in 2014 and for not submitting an annual report since 2012.

### **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.

On December 5, a provincial court confirmed the conviction for sexual abuse of Jose Angel Prenda, Alfonso Jesus Cabazuelo, Jesus Escudero, Angel Boza, and

Antonio Manuel Guerrero, who called themselves “the Wolfpack” and who in 2016 allegedly raped an 18-year-old woman in Pamplona. On April 26, the court found the defendants guilty of the lesser crime, citing insufficient evidence of violence or intimidation, which is required to determine a rape verdict. Feminist associations responded by leading nationwide protests.

According to the government’s delegate for gender violence, as of June 30 partners or former partners were responsible for the deaths of 17 women. According to the General Council of the Judiciary, 49,165 cases of gender-based violence were prosecuted in 2017. The Observatory against Domestic and Gender Violence reported 166,260 complaints of gender-based violence in 2017. There were 39,586 allegations of gender-based violence in the first quarter of 2018. Independent media and government agencies generally paid close attention to gender-based violence.

In September a husband killed his wife in Bilbao, nine months after she had reported him to police for domestic abuse and making death threats. The judge who reviewed the abuse charges refused to issue a restraining order and acquitted the husband of all charges on the grounds that his wife and children were planning to move to a new apartment.

On May 10, the Ministry of the Interior reported a 28.4-percent increase in the number of reported rapes during the first three months of the year. In January the Ministry of Health reported that 6,300 men were imprisoned in 2017 for crimes related to gender-based violence.

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

In September 2017 congress approved the *State Plan against Gender Violence*, with a budget of one billion euros (\$1.15 billion) over five years, to support efforts to counter the problem. On August 3, the government approved the distribution of the first 100 million euros (\$115 million) for the year.

The government allocated more than 5.26 million euros (\$6.05 million) to combat gender-based violence, trafficking, and childhood sexual abuse within the existing framework of the *State Plan against Gender Violence*.

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

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

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

Coercion in Population Control: There were no reports of government coerced abortion or involuntary sterilization.

On February 6, the NGOs "Cermi Mujeres" and the European Forum of Disabilities alleged that each year approximately 100 women and girls with intellectual disabilities are sterilized in the country without their knowledge.

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

## **Children**

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

Child Abuse: The law provides protections for various forms of child abuse. Those accused of sexual abuses involving minors receive larger penalties. For example, in cases of sexual abuse, instead of one to four years of jail time, the penalty increases to four to 10 years when the victim is a child. Cases of sexual aggression, which normally receive six to 12 years in jail, are punished with 12 to 15 years in cases involving minors.

As of June 30, either a parent or a parent's partner killed one minor.

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

As of September 15, Catalan police assisted six victims of forced marriage, one of whom was a minor.

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

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

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

The commercial sexual exploitation of trafficked teenage girls remained a problem (see also the Department of State's *Trafficking in Persons Report* at [www.state.gov/j/tip/rls/tiprpt/](http://www.state.gov/j/tip/rls/tiprpt/)).

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

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

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

### **Anti-Semitism**

The Jewish community numbered approximately 40,000-45,000 persons. The law provides descendants of Sephardic Jews expelled from the country 500 years ago right of return as full Spanish citizens. In March the Council of Ministers reported that 1,910 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.

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

According to Jewish community leaders and the NGO Movement against Intolerance, anti-Semitic incidents included graffiti on Jewish institutions. In February anti-Semitic graffiti with the word "pigs" written in English followed by a sentence in Catalan reading "Get out of the country" was spray-painted on the walls of a synagogue in Barcelona, which now serves as a cultural center and a museum.

In June authorities in the Canary Islands arrested an illegal immigrant from Morocco allegedly for inciting hatred against Jews on Facebook and YouTube.

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

### **Trafficking in Persons**



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

### **Persons with Disabilities**

The law prohibits, with fines of up to one million euros (\$1.15 million), discrimination against persons with physical, sensory, intellectual, and mental disabilities. The government generally enforced these provisions effectively.

The law requires private companies with more than 50 employees to hire persons with disabilities for at least 2 percent of their jobs. In 2016 the NGO Leialta estimated that 81 percent of the companies did not comply with the obligation. In July the government approved a *Plan for Decent Work*, which warrants labor inspectors to guarantee that companies implement their obligation for persons with disabilities under the law.

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

On October 18, the legislature approved reforms of the electoral law that will allow approximately 100,000 persons with intellectual disabilities to vote.

The Randstad Foundation reported that between January and October, the private sector signed 98,378 contracts with persons with disabilities, 6.3 percent more than during the same period in 2017.

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

The Ministry of the Interior reported 416 hate crimes linked to racism (38 percent) in 2016, the most recent year for which data were available, 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.

In February, ECRI reported that only 45 percent of Romani children finish secondary school.

During 2017 the Federation of SOS Racism Associations recorded 309 complaints, 82 of them were institutional racism, while 46 were perpetrated by law

enforcement officials. Most of the cases of discrimination go unreported, due to victims' lack of resources and lack of trust in the system.

In its report published on February 28, ECRI welcomed the government's refinement of crime statistics "to obtain a realistic picture" of the extent of hate crimes. The commission noted, however, serious underreporting of hate crimes.

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

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

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

According to the Ministry of the Interior, 1,272 hate crimes were reported in 2016, the latest year for which data were available, 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, as of September there were 142 instances of religiously motivated violence (122 such cases in the same period for 2017).

## **Section 7. Worker Rights**

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

The law allows most workers, including foreign and migrant workers, to form and join independent unions of their choice without previous authorization or excessive requirements. Military personnel and national police forces do not have the right to join 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 other types of forced labor. In 2017 and 2018, the government hired an additional 358 labor inspectors. 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/](http://www.state.gov/j/tip/rls/tiprpt/).

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

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

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

The ministry 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 2016, the most recent year for which data were available, the Ministry of Employment, Migration, and Social Security detected 15 violations of child labor laws that involved 20 minors younger than age 16 and 29 other violations that involved 34 minors between ages 16 and 18 for working in prohibited fields of work. The fines amounted to more than 295,000 euros (\$339,000). In 2016 there were 31 violations related to the safety and health of working minors, involving 38 minors, with penalties of more than 357,000 euros (\$411,000). 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**

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

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

On International Women's Day on March 8, an estimated 5.3 million individuals took part in a work stoppage to demand gender equality and equal pay.

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

The law provides for a national minimum wage, which barely met the poverty level in 2017.

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

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

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

The Inspectorate of Labor has responsibility for enforcing the law on occupational safety and health standards through inspections and legal action if inspectors find infractions. The International Labor Organization estimated that there was one

labor inspector for every 10,000 employed persons. The penalties were not sufficient to deter violations. Unions criticized the government for devoting insufficient resources to inspection and enforcement. The most common workplace violations included occupational safety standards in the construction sector and infractions of wages and social security benefits on workers in the informal economy. In June, Funcas (Fundacion de Cajas de Ahorros) estimated that the informal economy was between 18.5 and 24.5 percent of the country's gross domestic product.

Through July the Ministry of Labor, Migration, and Social Security recorded 303,876 workplace accidents. Authorities considered 301,287 accidents as minor and 2,307 as serious but nonfatal. There were 282 fatal accidents, four fewer than in the same period in 2017.