

SPAIN

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 was named to head the government as president of the Council of Ministers, the equivalent of prime minister. National elections held on November 20 were considered free and fair. Security forces reported to civilian authorities.

The most significant human rights problems during the year included limited access to asylum for undocumented migrants and credible reports that security forces were given arrest quotas for immigrants and used ethnic and racial profiling to achieve this goal. Gender-based violence against women and girls was also a problem.

Other problems included some reports that security forces abused suspects and used excessive force against demonstrators and prison overcrowding. Authorities at times delayed access by persons under arrest to legal assistance or to arraignment before a judge. Identification controls by security forces based on ethnic and racial classifications took place. Government corruption occurred, particularly at the provincial and municipal levels. Trafficking in persons and social discrimination against Muslims and other minorities were reported. Jewish groups reported isolated acts of vandalism and anti-Semitism.

The government generally took steps to prosecute officials, both in the security services and elsewhere in the government, who committed abuses. There were no reports of impunity.

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

a. Arbitrary or Unlawful Deprivation of Life

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

As of September, authorities arrested 20 Basque Fatherland and Liberty ETA members as well as five persons allegedly involved in ETA's street violence

campaign. In addition 26 members were arrested in France and one in another country. The Office of the General Prosecutor reported that during 2010 there were 54 trials of persons directly or indirectly related to ETA.

b. Disappearance

There were no reports of politically motivated disappearances.

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

The constitution and laws prohibit such practices, and the government generally respected this prohibition. There were reports of police mistreatment, although some of them were dismissed by the courts.

The Coordinator for the Prevention of Torture (a group of Spanish human rights nongovernmental organizations [NGOs], universities, and bar associations) reported that in 2010 there were 251 reports of torture or mistreatment involving 552 complaints, down from 624 complaints in 2009. According to the group, 85 of the complaints involved cases against local police authorities, 79 against the national Civil Guard, 222 against the national police authorities, 52 against the Catalan regional police, 17 against the Basque police, and the remainder against prison staff. The regions with the highest number of complaints were Madrid (138), the Basque Country (132), Andalucia (68), Catalonia (67), and Valencia (43). The Catalan Department of Interior reported that only seven complaints of abuse or mistreatment were filed against Catalan regional police in 2010.

On October 13, a group of 56 protestors from the May 15 movement presented a lawsuit against Catalonia's minister of interior and other security officials for using force to break up a demonstration in Barcelona on May 27. Videos and photographs of the incident showed several police hitting male and female protestors with batons while they were sitting on the ground with their hands raised in the air. Lawyers for the protestors filed a complaint that the police "gravely" violated the protestors' fundamental rights. The operation resulted in 121 injuries, including 37 of police. In a report to the Catalan parliament on July 10, the regional ombudsman cited the police for using excessive force in attempting to disband the protestors. The ombudsman received 391 complaints against the police for their actions during the demonstrations. The report also faulted regional and city police for their failure to protect lawmakers from demonstrators who blocked the entrances to the Catalan parliament on June 15. In light of those

events, the ombudsman proposed to create “mediation groups” to better equip the police to respond to protests without resorting to violence. The police maintained that their actions were a “proportionate and adequate” response, as some of the protestors had provoked the conflict.

Amnesty International (AI) also reported excessive use of force by police against demonstrators on August 4-5 in front of the Ministry of the Interior in Madrid and on August 17-18 in the Puerta del Sol Square, also in Madrid.

The AI annual report for 2011 criticized Spain for failing to investigate complaints of torture and mistreatment and for the preventive detention of foreigners. AI also criticized that authorities could hold suspects incommunicado for up to 13 days if they are suspected of terrorist activities. The AI report stated that the number of police checks of immigrants based on racial consideration continued to grow.

Prison and Detention Center Conditions

As of August, a total of 71,955 inmates were in prison. Overall, the Spanish prison system contained 44,669 cells, of which 1,120 housed three or more inmates. There were 67 prisons in the country. Approximately 8.7 percent of the prison population was female, the majority of whom were serving sentences for drug trafficking. There were 5,526 juveniles imprisoned during 2010, and an additional 10,527 were on probation. Prisoners had access to potable water, food, entertainment, sports facilities, and libraries. Prisoners and detainees had reasonable access to visitors and were permitted religious observance.

According to the 2010 report by the Coordinator for the Prevention of Torture, there were 552 complaints against security forces and jail functionaries for abuse of authority, 72 less than in 2009. The report indicated that in 2010 a total of five persons died while in police custody, 46 died in jail, and one minor died while in a detention center for youth.

On March 25, the Council of Europe’s Committee for the Prevention of Torture (CPT) released a report on its 2007 visit to Spain. At the time of the visit, 57,042 persons were incarcerated in Spain (excluding Catalonia) in prisons with an official total capacity of 39,893, creating an overall occupancy level of 143 percent. In Catalonia, where the regional government has jurisdiction of the penal system, the prison population was 9,363 in facilities with an official capacity of 6,600. The report noted that conditions of detention in National Police stations visited by the CPT varied considerably. While conditions were generally acceptable in many

stations, cells in some stations lacked access to natural light and had poor artificial lighting and ventilation. At the Ville de Vallecas police station in Madrid, detainees were not provided mattresses at night. The CPT found conditions at the Puente de Vallecas police station in the Madrid area “totally unacceptable” due to an array of problems including “woefully inadequate” ventilation. Material conditions at Civil Guard establishments were generally satisfactory, although a number lacked access to natural light, had poor ventilation, and had small cells. Lack of access to natural light and ventilation were also observed at Mossos d’Esquadra detention facilities.

Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and request investigation of credible allegations of inhumane conditions. Authorities investigated credible allegations of inhumane conditions and documented the results of such investigations in a publicly accessible manner. The government generally investigated and monitored prison and detention center conditions.

Prisoners can file complaints regarding mistreatment with the national ombudsman, who investigates complaints but does not have authority to take corrective measures directly.

In July the Spanish Ombudsman, in its role of National Mechanism for the Prevention of Torture, issued a report recommending the closing of the detention centers for illegal foreign migrants at Algeciras and Malaga because they did not meet minimum conditions. Another recommendation was to fully investigate any reports of torture or mistreatment. The ombudsman requested that authorities discontinue the practice of holding juveniles incommunicado and allow detainees to have private meetings with the lawyers they have been assigned. The report also requested video surveillance and video recording devices in all detention centers “to prevent improper behavior.” The ombudsman made more than 300 unannounced visits to police and Civil Guard detention centers, jails, centers for minors, and “foreigners’ internment centers” used to hold undocumented migrants.

In February, the secretary general for penitentiary institutions announced that the government was scheduled to open 19 centers (jails, social insertions centers, and units for mothers) before the end of 2012.

The government generally permitted monitoring by independent nongovernmental observers, including the Coordinator for the Prevention of Torture and the CPT, in accordance with their standard modalities. On May 31, the CPT conducted a two-

week periodic visit to Spain. As of year's end, the report on the CPT visit had not been publicly released.

d. Arbitrary Arrest or Detention

The constitution and law prohibit arbitrary arrest and detention, and the government generally observed these prohibitions.

Role of the Police and Security Apparatus

Civilian authorities maintained effective control over the armed forces and Civil Guard, and the government generally has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year. Police forces include the national police and the Civil Guard, both under the authority of the central government, as well as municipal police and police forces under the authority of the Catalan and the Basque Country regional governments. All police forces operated effectively, with isolated reports of corruption.

Arrest Procedures and Treatment While in Detention

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.

Detainees generally were promptly informed of the charges against them, and the courts released defendants on bail unless they believed the defendants might flee or be a threat to public safety. The law provides detainees the right to consult a lawyer. There were often lengthy delays, however, between the time a detained person first requested a lawyer and the time the lawyer arrived at the place of detention. In its March 25 report using 2007 information, the CPT noted that the detained persons it interviewed were only allowed to meet in private with a lawyer after they had made a formal statement to law enforcement officials. The state provided legal counsel to indigent detainees.

In certain rare instances involving acts of terrorism, the law allows authorities to detain persons for up to five days prior to arraignment with the authorization of a judge. In these cases a judge also may order incommunicado detention for the entire duration of police custody.

The law stipulates that suspects held incommunicado have the right to an attorney and medical care, but they are neither allowed 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.

On February 20, the Spanish Society for the International Human Rights Law submitted a report to the UN in which it requested the Spanish government to close detention centers for foreigners on the grounds they were “discriminatory and illegal.” According to the association, abuses, mistreatment, and violations of human rights were committed in these centers. The association’s report stated that “the conditions of the centers are worse than those existing in jails in most areas.” The report asserted that detainees spent up to 60 days in rooms holding six or eight persons, without privacy and with deficient health conditions and were provided insufficient access to health care and social assistance. The report also alleged that detainees were not informed of their right to seek asylum or allowed to contact a judge or prosecutor, there were not enough interpreters, and lawyers had trouble gaining access to them. It also claimed there were cases of torture, mistreatment, and threats on the part of officials in charge of the centers.

During the year the government generally continued to implement preventive measures to safeguard the rights of detainees held incommunicado, including the application of protocols and continuous video surveillance in detention facilities and interrogation rooms.

Pretrial Detention: As of August, there were 13,771 individuals in pretrial detention. Under the law, authorities may not detain suspects for more than two years before putting them on trial unless a judge authorizes a further delay, which may extend to four years. In practice pretrial detention was usually less than one year.

e. Denial of Fair Public Trial

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

Trial Procedures

The constitution and law provide for the right to a fair trial, and an independent judiciary generally enforced this right. Trials are public, and there is a nine-person jury system. Defendants have the right to be represented by an attorney (at government expense if indigent), confront witnesses, present witnesses on their behalf, and have access to government-held evidence. Defendants enjoy a presumption of innocence and the right to appeal.

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Regional Human Rights Courts Decision

During the year the European Court of Human Rights (ECHR) delivered nine judgments that found at least one violation by the state of its obligations under the European Convention on Human Rights. The government generally complied with the court's orders. Spanish case law also makes repeated references to ECHR's case law, and in some instances the government implemented new procedures or legislation following an ECHR decision. In response to an ECHR decision against the state for unduly lengthy criminal proceedings, the government enacted a law in December 2010 that allows the undue length of a criminal proceeding to be cited as a mitigating circumstance that may reduce a sentence.

Civil Judicial Procedures and Remedies

An independent and impartial judiciary exists for civil matters, and there is access to a court to bring lawsuits seeking damages for a human rights violation. Violations of human rights can be pursued either criminally or, if committed by the state administration in other than a criminal offense, the complainant may pursue an administrative resolution. Persons may appeal court decisions involving alleged violations by the state of the European Convention on Human Rights to the ECHR once all avenues of appeal in Spanish courts have been exhausted. The national ombudsman also serves to protect and defend basic rights and public freedom on behalf of citizens.

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

The constitution prohibits such actions, and the government generally respected these prohibitions in practice.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

Status of Freedom of Speech and Press

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

Freedom of Speech: The law prohibits, subject to judicial oversight, actions including public speeches and the publication of documents that the government interprets as glorifying or supporting terrorism. During the year the Office of the General Prosecutor filed eight cases in the courts under this law.

The law provides that persons who provoke discrimination, hatred, or violence against groups or associations for racist, anti-Semitic, or other references to ideology, religion or belief, family status, membership within an ethnic group or race, national origin, sex, sexual orientation, illness, or disability, may be punished with imprisonment for one to three years.

Nongovernmental Impact: Unlike in previous years, there were no reports of new ETA threats against journalists. However, Reporters without Borders reported in May that Spain was on the list of countries where freedom of speech was challenged because of the terrorist organization ETA, “which has not stopped harassing journalists, especially those living and working in the Basque Country.”

Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the expression of views via the Internet, including by e-mail. Authorities monitored Web sites for material containing hate speech and advocating anti-Semitism. In March the Raxen report by the Movement against Intolerance estimated there are over 200 Spanish Web sites promoting hate on an international level, and even more on social networks, which especially affect the Spanish-speaking world. At year’s end, the Barcelona court had several open investigations involving hate crimes on the Internet.

Academic Freedom and Cultural Events

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

b. Freedom of Peaceful Assembly and Association

The constitution provides for freedom of assembly and association, and the government generally respected these rights in practice.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/j/drl/irf/rpt.

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The government generally cooperated with the Office of the UN High Commissioner for Refugees and other humanitarian organizations, including the Spanish Commission for Refugee Assistance, in providing protection and assistance to refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

Protection of Refugees

Access to Asylum: The country's laws provide for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. In 2010 there were 2,744 asylum applications in the country, of which 2,322 petitions were granted. Of these, 345 cases were granted according to the Geneva Convention, and 350 cases received subsidiary protection. There were 15 individuals who received asylum for humanitarian reasons. The countries most represented by the petitioners were Cuba and Nigeria.

Potential asylum seekers were effectively able to exercise their right to petition authorities. In a 2010 report, however, the national ombudsman noted that complaints related to irregularities in the handling and reporting of some deportation cases had not declined significantly.

Saharawi applicants reported difficulties petitioning for political asylum. In these cases the National Court has argued that there was no evidence that “Moroccan authorities went after Saharawi in a systematic and generalized way because of their ethnic origin.”

The Ministry of Foreign Affairs ran the Program for Assistance and Protection of Human Rights Defenders at Risk. Under this program, human rights defenders who faced persecution and death threats could move to the country for a period ranging from six months to two years, depending on the circumstances.

Safe Country of Origin/Transit: Asylum seekers are not automatically rejected solely because of their country of origin. All asylum petitions are reviewed individually, and an established appeals process is available to petitioners.

Nonrefoulement: In practice the government generally provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion.

Durable Solutions: On October 7, the Council of Ministers approved the program for resettling up to 100 refugees in Spain in 2011. The country accepts refugees for resettlement from third countries and provides protections with the assistance of NGOs such as the Spanish Commission for Refugee Assistance.

Temporary Protection: The law provides protection for up to three years for persons who do not meet the criteria for refugee status but face dangers such as torture or the death penalty if returned to their countries of origin. The law includes gender and sexual orientation as conditions for granting asylum, makes free legal assistance available to asylum seekers, provides a single process for both asylum and subsidiary protection (if asylum is denied, subsidiary protection is automatically considered), contemplates family reunification for asylum seekers, allows asylum requests to be accepted at an embassy or consulate, and provides for the resettlement of refugees in neighboring countries in some cases.

Section 3. Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution provides citizens the right to change their government peacefully, and citizens exercised this right in practice through periodic, free, and fair elections based on universal suffrage.

Elections and Political Participation

Recent Elections: National elections held on November 20 were considered free and fair.

Participation of Women and Minorities: There were 131 women in the 350-seat Congress of Deputies, 91 women in the 261-seat Senate, and four women in the 13-member Council of Ministers.

The government did not keep statistics on the ethnic composition of the parliament, but linguistic and cultural minorities were represented. There were Muslim political parties in the city enclaves of Ceuta and Melilla in North Africa. The Roma had no elected representation in the government.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, and the government generally implemented these laws effectively. There were isolated reports of government corruption during the year.

According to the Attorney General's Office, there were investigations into 730 cases of political corruption across the country, with the Spanish Socialist Workers' Party leading with 264 cases, followed by the People's Party with 200. Other cases came from smaller parties or, in 72 cases, from accused public officials without apparent political affiliation.

The constitution provides for an ombudsman who investigates claims of police abuse. In 2010 the national ombudsman filed 466 ex officio judicial complaints, an increase from 269 complaints in 2009. During 2010 the ombudsman's office processed 34,674 complaints, an increase from 22,287 complaints in 2009.

Public officials are subject to financial disclosure laws. The Ministry of Public Administration is responsible for managing and enforcing the Law of Conflicts of Interest. The government also has a code of good governance that applies to all senior government officials.

The law mandates public access to government information, and the government generally granted access to citizens and noncitizens, including foreign media.

Section 5. Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations 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 cooperative and responsive to their views.

International Human Rights Bodies: In November 2010 the Council of Ministers approved Belgian-Moroccan citizen Ali Aarrass's extradition to Morocco to face terrorism charges. The UN Human Rights Council (UNHRC) issued an interim request on November 26, asking that Spain not enforce the extradition until the UNHRC could make a further recommendation on whether the extradition would expose Aarrass to the risk of torture. On December 14, Aarrass was extradited to Morocco. Human Rights Watch and other NGOs criticized Spain's extradition of Aarrass.

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 and had the public trust.

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

The law prohibits discrimination based on race, gender, disability, language, or social status, and the government generally enforced it effectively.

Women

Rape and Domestic Violence: The law prohibits rape, including spousal rape, and the government generally enforced the law effectively. It also prohibits violence against women, and independent media and government agencies generally paid close attention to gender violence.

According to the Observatory against Domestic and Gender Violence, 61 women, 21 of whom were foreign born, were killed by their partner or ex-partner during the year. The observatory noted that only a small number of the women killed had reported abuse prior to their death. During the year a survey by the Ministry of Equality found that 600,000 women reported being assaulted by their partners, although authorities registered only 130,000 domestic violence complaints during

the year. The observatory cautioned that immigrant women and women over the age of 56 remained vulnerable groups to gender violence.

The law establishes 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 2011 statistics from the General Counsel of the Judicial Power, 80 percent of domestic violence cases resulted in a conviction.

In April parliament approved reforms that provide special protections for irregular migrant women who report domestic abuse, including the suspension of a woman's deportation proceedings, provisions to obtain a work permit, and additional protection measures for accompanying children.

More than 50 offices provided legal assistance to victims of domestic violence, and there were more than 454 shelters for battered women. A 24-hour toll-free national hotline advised battered women on finding shelter and other local assistance. As of October 2011, the hotline took calls in Spanish, French, German, Arabic, Bulgarian, Chinese, Portuguese, Romanian, and Russian. As of October 2010, there were 127 specialized courts dealing exclusively with domestic violence cases, an increase from 103 in 2009.

Female Genital Mutilation (FGM): FGM is prohibited, and the law authorizes courts to prosecute cases even if the crime occurred overseas. Spain's first trial for FGM was successfully prosecuted in November in Teruel, Aragon. The court sentenced the father of a two-year-old girl to six years in prison and the mother to two years for mutilating their daughter when she was eight months old. The court ruling stated that the mutilation took place in Spain and the parents subjected their daughter to FGM because of their religious and cultural beliefs.

In Catalonia the law requires that a doctor examine immigrants considered to be in danger of FGM when they travel to and from their countries of origin. Parents whose children were determined to have been subjected to FGM risked losing custody. Catalan regional police had procedures to prevent FGM through the early detection of potential victims, immediate reporting of possible cases to appropriate authorities, and, when possible, preventing the travel of potential victims. During the year the Catalan police prevented the genital mutilation of 36 girls, compared with 28 in 2010. In Catalonia alone, at least 10,000 girls were at risk of FGM, according to a 2009 report by Autonomous University of Barcelona.

Sexual Harassment: The law prohibits sexual harassment in the workplace; however, harassment was reported to be a problem.

Reproductive Rights: Couples and individuals decide freely the number, spacing, and timing of their children and enjoy the information and means to do so free from discrimination, coercion, and violence. Obstetric and postpartum care is provided under the national health plan. Contraception is easily accessible, including emergency contraception, which is available without a doctor's prescription.

Discrimination: Under the law women enjoy the same rights as men, including rights under family law, property law, and in the judicial system. The Women's Institute worked to ensure the legal rights of women, combat economic discrimination, and integrate women into the professional workplace. The unemployment rate for women (23.1 percent) continued to be higher than for men (22.8 percent). Discriminatory wage differentials continued to exist, and women held fewer senior management positions than men. According to data from the National Statistics Institute, women in the country earned 22 percent less than men. Access to health care is a fundamental right under the constitution regardless of gender, and women had equal access to diagnosis and treatment of sexually transmitted infections, including HIV.

Children

Birth Registration: Citizenship is derived from one's parents. In rare cases when a child born in the country does not acquire his or her parents' nationality, the country will grant nationality.

Child Abuse: According to the Ministry of Equality, approximately 800,000 children were victims of domestic violence, either as witnesses or as direct victims. During 2010 at least 16 children were killed by one of their parents.

As of September 2011, 67 unaccompanied minors were housed in approximately 12 local shelters on the Canary Islands. In previous years, NGOs raised concerns about overcrowding, mistreatment, and poor conditions at three emergency centers, which at one time housed over 1,000 unaccompanied minors predominately from Sub-Saharan Africa and Morocco. By June the three emergency centers, La Esperanza, Arinaga, and Teguste, had closed due to a steep drop in new arrivals.

Sexual Exploitation of Children: Trafficking of teenage girls for commercial sexual exploitation remained a problem. The minimum age for consensual sex in the country is 13. If deceit is used in gaining the consent of a minor under the age of 16, an individual can be charged upon parental complaint. The law specifically provides that an individual who, by use of deceit, commits sexual abuse against a person over the age of 13 but under 16 will be punished with imprisonment for one to two years or an equivalent fine. Nonconsensual sexual abuse is defined as sexual acts committed against persons under 13 years, unconscious persons, or mentally ill persons.

The law prohibits child pornography. The penal code criminalizes both using a minor “to prepare any type of pornographic material” and producing, selling, distributing, displaying, or facilitating the production, sale, dissemination, or exhibition, of “any type” of child pornography by “any means.” Knowingly possessing child pornography is also penalized, carrying a potential prison sentence of up to one year. The penalty for the production, sale, or distribution of pornography in which a child under 18 years of age has been involved is imprisonment from one to four years or up to eight years if the child is under 13.

In October 2010 more than 100 persons were arrested or indicted in a nationwide raid carried out by more than 400 National Police officials against a child pornography ring. In total, security forces arrested over 200 persons for possessing and distributing child pornography.

Penalties for recruiting children or persons with disabilities into prostitution is imprisonment from one to five years (previously it was one to four years); if the child is under the age of 13, the term of imprisonment is four to six years. The same sentence applies to those who seek child prostitutes. The penalty for pimping children or persons with disabilities into prostitution is imprisonment from four to six years and, if the minor is under 13, the term of imprisonment is five to 10 years. The penalty for recruiting children or persons with disabilities for child pornography is one to five years’ imprisonment; if the child is under the age of 13, imprisonment is five to nine years. In addition 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.

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.

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 report on compliance at travel.state.gov/abduction/resources/congressreport/congressreport_4308.html as well as country-specific information at travel.state.gov/abduction/country/country_3781.html.

Anti-Semitism

According to Jewish community leaders, while violence against members of the approximately 48,000-member Jewish community was rare, anti-Semitic incidents, including graffiti against Jewish institutions, continued.

On June 27, Barcelona's prosecutor for hate crimes and discrimination reported five cases of anti-Semitism in Catalonia in 2010. However, the report cautioned the majority of the hate crimes were unreported and the data was incomplete. The report faulted the National Police and Civil Guard for not collecting data and statistics on hate crimes. The five reported cases of anti-Semitism were based on data from Catalonia's autonomous police, the Mossos d'Esquadra, which implemented a protocol to collect hate crimes statistics in March 2010.

On March 31, the NGO Movement against Intolerance reported 4,000 racist incidents per year in the country, of which 400 were clearly anti-Semitic.

In November legal proceedings began against the head of the neo-Nazi political party Estado Nacional Europeo (National European State) and two collaborators for distributing materials that justified the Holocaust and for inciting hate, violence, and discrimination. Barcelona's hate crimes prosecutor sought a four-and-a-half year prison sentence against the party leader for inciting hate through a bimonthly magazine, *Intemperie* (Outdoor), and two-and-a-half year sentences for each collaborator. In addition to anti-Semitic writings, the group also wrote against homosexuals and immigrants. During his trial, the head of the party told the court, "it's not racism, it's hate."

Trafficking in Persons

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

Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, access to information technology and communication, including social media, and the provision of other state services. The government generally enforced these provisions effectively. The law mandates access to buildings for persons with disabilities, and the government generally enforced these provisions; however, levels of assistance and accessibility differed between regions. The Ministry of Labor and Social Affairs is responsible for protecting the rights of persons with disabilities.

The law provides for fines of up to one million euros (\$1.3 million) for discrimination against disabled persons.

On January 21, the State Federation of Deaf People expressed its regret that the Senate had allocated funds to interpret between Spanish official languages without considering allotting funds to hire sign language interpreters.

National/Racial/Ethnic Minorities

There were instances of societal violence and discrimination against members of racial and ethnic minorities, and the government generally undertook efforts to combat the problem.

During 2010 the government-sponsored Network of Centers for Assisting Victims of Discrimination received 235 complaints of discrimination, of which 39 percent were from the African community, 20 percent from the Romani community, and 17 percent from the Latin American community. Of the complaints, 24 percent were related to discrimination based on unequal access to goods and services in both the public and private sectors, 22 percent were against security forces, and 17 percent were related to discrimination in the workplace. The 2010 Raxen Report by the Movement against Intolerance estimated that there are approximately 4,000 racially motivated crimes in the country each year as well as over 200 xenophobic Web sites. The Office of the Spanish Ombudsman reported 48 complaints of racism and xenophobia in 2010.

On March 10, the UN Committee for the Elimination of Racial Discrimination issued a report urging the country to “take effective measures to eradicate the identification controls based on ethnical and racial approaches,” which can lead to unfair arrests. The committee urged Spain to review the police staff notice 1/2010

where arrest quotas of immigrants were included. According to the media, since 2008, the National Police have had orders to identify as many possible illegal immigrants in Madrid, with the objective of expelling them from the country. Four police unions have confirmed the reports both to the Office of the General Prosecutor and the ombudsman, stating that they were forced to arrest foreigners just because they look like foreigners and could be without papers. The Ministry of Interior had denied the existence of the controls.

According to the domestic NGO Fundacion Secretariado Gitano (FSG), Roma continued to face discrimination in access to employment, housing, and education. The Romani community, which the FSG estimated to number 650,000, experienced substantially higher rates of unemployment, poverty, and illiteracy than the general population. During the year the FSG reported 115 cases of discrimination against Roma, of which 30 percent involved discriminatory portrayals of Roma in the media and online.

On April 4-6, Thomas Hammarberg, the Council of Europe's commissioner for human rights, visited Madrid and met with the secretary general of social policy and consumption, Isabel Martinez Lozano. In his report on the visit, Hammarberg noted that the economic downturn had a disproportionately severe impact on Roma, whose rate of employment in 2009 declined by 35 percent, compared with a decline of 18 percent experienced by the general population, and may endanger improvements the country has achieved. He also noted that disproportionate numbers of Roma continued to live in segregated and substandard dwellings, with civil society reporting that 12 percent of Roma in the country lived in substandard housing and 4 percent lived in shantytowns. Hammarberg criticized "certain Spanish media" for propagating negative stereotypes about immigrants and Roma, associating them with "illegality, deviance, and lack of adaptation."

Politicians known for their hard-line stances against immigration gained ground following Catalonia's municipal elections in May. Xavier Garcia Albiol of the Popular Party of Catalonia became the new mayor of Badalona, a suburb of Barcelona that is the third largest city by population in Catalonia, in part due to his polemical views linking immigrants from Romania and other countries to crime and promising a tougher stance on illegal immigration. As a result of a 2010 campaign flyer linking immigrants to crime that stated "We don't want Roma," Albiol was charged with inciting racist hate. As of year's end, investigators were determining whether to send the case to trial.

In the May elections, the far-right, anti-immigrant Platform for Catalonia (PxC) increased its number of city council representatives in Catalonia from 17 to 67, but the party neither won any mayoral races nor earned a seat in the regional parliament. In November Juan Carlos Fuentes Linares, the PxC's former secretary general and city councilman in the town of Vic, was sentenced to one-and-a-half years in prison for inciting hate. The charges stemmed from anti-Muslim pamphlets that Fuentes Linares distributed in the 2007 election campaign. In the same trial, the court absolved PxC founder and president Josep Anglada of the same charges, citing insufficient evidence to prove that Anglada knew about the pamphlets.

On May 27, the government approved the disciplinary code of the armed forces, which calls for penalties for the use of any type of discriminatory or xenophobic expressions.

On November 4, the Council of Ministers approved the Integral Strategy against Racial Discrimination and Xenophobia. The strategy called for improvement in the gathering of statistical information from public institutions, strengthening of the cooperation between entities and institutions, and creation of prevention plans for vulnerable groups, including immigrants, refugees, unaccompanied minors, or those suffering discrimination because of their gender or religious beliefs. The strategy paid special attention to labor discrimination.

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

The lesbian, gay, bisexual, and transgender (LGBT) community was widely accepted throughout the country. LGBT organizations were numerous, and there were no reported impediments to their operation.

Other Societal Violence or Discrimination

There were no reports of major societal violence or discrimination against persons with HIV/AIDS.

On September 2, Catalonia's Superior Court ordered the regional government to comply within two months with a 2010 Spanish Supreme Court ruling that Spanish become a vehicular language in Catalonia's public schools. As of year's end, the Catalan government had not complied with the ruling. Catalan president Artur Mas staunchly defended the current educational model and stated that Catalonia's

language policy is a “red line” not to be crossed. Advocates of the Catalan immersion model cited studies showing that Catalan public school students performed as well as their counterparts in other parts of Spain on Spanish language proficiency tests.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law allows workers, including foreign and migrant workers, to form and join independent unions of their choice without previous authorization or excessive requirements, and workers did so in practice. However, military personnel and national police forces do not have the right to join unions, and judges, magistrates, and prosecutors are not free to join the union of their choice.

The law allows unions to conduct their activities without interference, and the government generally protected this right in practice. The law provides 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. On occasion employers used the minimum service requirements to undermine planned strikes.

The law provides for collective bargaining, including for all workers in the public sector except military personnel, and it was freely practiced. Public sector collective bargaining includes salaries and employment levels, but the government retained the right to set these if negotiations failed. Collective bargaining agreements were widespread in both the public and private sectors, covering approximately 80 percent of the workforce as of 2011.

Employers frequently hired new employees under temporary work contracts. The International Trade Union Confederation (ITUC) stated that, although in theory workers on temporary contracts were covered by collective bargaining agreements, in practice more and more workers were individually negotiating directly with employers and managers and undermining the collective bargaining process. The ITUC further noted that 63 percent of temporary workers were immigrants.

The law prohibits discrimination by employers against trade union members and organizers; however, 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 forced or compulsory labor, including by children; however, there were reports that children were trafficked for forced begging. Men were also trafficked for forced labor, mainly in agriculture and construction. Migrant women and children from Romania and Bulgaria remained particularly vulnerable to labor exploitation in agriculture and forced begging.

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

c. Prohibition of Child Labor and Minimum Age for Employment

There are laws and policies to protect children from exploitation in the workplace, and these laws were generally enforced. However, there were reports that children were trafficked for forced begging.

The statutory minimum age for the employment of children is 16. The law also prohibits the employment of persons under the age of 18 at night, for overtime work, or in sectors considered hazardous. The Ministry of Labor and Social Affairs has primary responsibility for enforcement of the minimum age law and enforced it effectively in major industries and the service sector. The ministry had difficulty enforcing the law on small farms and in family-owned businesses, where some child labor persisted. Laws prohibiting child labor were enforced effectively in the special economic zones. In 2010 the Ministry of Labor and Social Affairs detected 16 violations related to child labor, affecting a total of 22 minors.

d. Acceptable Conditions of Work

The national minimum wage was 641.40 euros (approximately \$834) per month. The Ministry of Labor and Social Affairs effectively enforced the minimum wage. The National Statistics Institute reported in October that 21.8 percent of the country's population lived below the poverty line. For a family of two adults and two children, the poverty level was set at 15,820 euros (\$20,600) per year. The average income per household in 2010 was 24,890 euros (\$32,400).

The law provides for a 40-hour workweek, with an unbroken rest period of 36 hours after each 40 hours worked. By law overtime is restricted to 80 hours per

year unless collective bargaining establishes a different level. Premium pay is required for overtime.

The National Institute of Safety and Health in the Ministry of Labor and Social Affairs has technical responsibility for developing occupational safety and health standards, and the Inspectorate of Labor has responsibility for enforcing the law through inspections and judicial action when infractions are found. As of August, there were 1,704 labor inspectors in the country. Unions criticized the government for devoting insufficient resources to inspection and enforcement. Workers have the right to remove themselves from situations that endanger health or safety without jeopardy to their employment. Authorities effectively enforced this right; however, employees with short-term labor contracts generally did not understand that they had such legal protections.