

Spain

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

d. Arbitrary Arrest or Detention

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

Role of the Police and Security Apparatus

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

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

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

Arrest Procedures and Treatment of Detainees

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

In certain rare instances involving acts of terrorism, a judge may order incommunicado or solitary detention for the entire duration of police custody. The law stipulates that terrorism suspects held incommunicado have the right to an attorney and medical care, but it allows them neither to choose an attorney nor to see a physician of their choice. The court-appointed lawyer

is present during police and judicial proceedings, but detainees do not have the right to confer in private with the lawyer. The government continued to conduct extensive video surveillance in detention facilities and interrogation rooms ostensibly to deter mistreatment or any violations of prisoner rights by police or guards.

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

e. Denial of Fair Public Trial

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

Trial Procedures

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

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

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

Property Restitution

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

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

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

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

According to the Ministry of the Interior, 230 hate crimes reported during 2016 were linked to the victim's sexual orientation, an increase of 36.1 percent from 2015. The LGBTI association Arcopoli also asserted that most of the attackers were under the age of 30.

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

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

HIV and AIDS Social Stigma (if applicable)

No information in this sub-section. Please see the full country report for more.

Other Societal Violence or Discrimination

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

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

Promotion of Acts of Discrimination (if applicable)

No information in this sub-section. Please see the full country report for more.

Section 7. Worker Rights

d. Discrimination with Respect to Employment and Occupation

While the government enforced these laws and regulations, discrimination in employment and occupation occurred with respect to race and ethnicity, gender, and sexual orientation. The government requires companies with more than 50 workers to reserve 2 percent of their jobs for persons with disabilities.

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