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Human Rights Committee

Seventh periodic report submitted by Spain under article 40 of the Covenant, due in 2020*, **, ***

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* The present document is being issued without formal editing.
** The present document was submitted pursuant to the simplified reporting procedure. It contains the responses of the State party to the Committee's list of issues prior to reporting (CCPR/C/ESP/QPR/7).
*** The annexes to the present document may be accessed from the web page of the Committee.

I. General information on the national human rights situation

Action taken regarding communications No. 1945/2010 (Achabal Puertas) and No. 2008/2010 (Aarrass)

1. María Achabal Puertas submitted an individual communication to the Human Rights Committee on 2 November 2009 (CCPR 1945/2010), claiming a violation of article 10 (1) of the International Covenant on Civil and Political Rights. In its Views of 27 March 2013, the Committee found a violation of article 7, read independently and in conjunction with article 2 (3) of the Covenant, after examining the facts alleged by the author in the light of these provisions and not under article 10 (1). Spain submitted a report on the measures taken to give effect to the Views on 12 February 2015.

2. Ali Aarrass submitted a communication to the Committee on 25 November 2010 (CCPR 2008/2010) on the grounds that his extradition to Morocco by the Spanish authorities was contrary to articles 7 and 14 of the Covenant. Following the submission of observations and additional information by both parties in 2011 and 2012, the Committee adopted Views on 21 July 2014, finding a violation of article 7 of the Covenant. Spain has submitted several follow-up reports in respect of these Views since 2015, most recently on 12 September 2022.

3. On 15 June 2020, the *amparo* petition (No. 1186-2019 –C) filed by Ali Aarrass before the Constitutional Court was accepted for consideration. Mr. Aarrass is contesting a judgment of the National High Court (Audiencia Nacional) that rejected his claim for pecuniary liability and argues that his fundamental rights to physical and moral integrity, to effective legal protection and to not be subjected to torture, inhuman or degrading punishment and treatment (articles 15 and 24 of the Spanish Constitution) have been violated. These proceedings are still pending.

4. On 29 April 2020, Ali Aarrass submitted a new communication to the Committee (3741/2020), claiming violations of articles 7, 12, 17, 23, 24 and 26 of the Covenant and requesting the granting of interim measures. The request for such measures has been denied by the Special Rapporteur on new communications and interim measures, in accordance with rule 94 of the Committee's rules of procedure. In October 2020, Spain requested that consideration of this communication be discontinued, but there has been no response from the Committee to date.

II. Specific information on the implementation of articles 1–27 of the Covenant

A. Constitutional and legal framework within which the Covenant is implemented (art. 2)

5. The second National Human Rights Plan, covering a five-year period (2023–2027), was adopted on 6 June 2023. It aims to remove the obstacles that prevent the real and effective enjoyment of the rights of the general population and the most vulnerable groups. The guiding principles are universality, indivisibility and interdependence, equality of women and men, equal treatment and non-discrimination and full accessibility.

6. The following was taken into account in designing the Plan:

- The recommendations received by Spain during the third cycle of the universal periodic review, and its responses to them
- The recommendations received by Spain from the human rights treaty bodies regarding treaties to which it is a State party
- The European Union Action Plan on Human Rights and Democracy for the period from 2020 to 2024

- The work carried out by the Government in recent years and its future commitments
- The evaluation of and lessons learned regarding the implementation of the first National Human Rights Plan

- The Plan consists of four main areas of action, each of which is linked to general and specific goals and proposed measures:

1. International obligations and cooperation
2. Promotion of human rights
3. Equality of women and men as a means of promoting human rights
4. Equal treatment and protection of the rights of specific groups as a means of promoting human rights

7. Sixteen ministries, as well as civil society organizations, social actors, universities, research centres, the autonomous communities, local entities and the Ombudsman, among others, contributed to developing the Plan. The General Courts, or national legislative assembly, will participate in the launch and execution of the 2023 Plan.

8. An advisory commission was set up to evaluate the various inputs, to make proposals and to monitor the implementation of the Plan. It is chaired by the State Secretary for Relations with the Courts and Constitutional Affairs and is made up of nine members with proven knowledge and experience in human rights, hailing from the academic world, non-governmental organizations and university-based human rights institutes. The Ombudsman's Office, which is a member of the advisory commission, has also actively participated in developing the Plan.

9. It is important to note that, in Spain, the Ombudsman is the High Commissioner of the General Courts. Its resources and budget are therefore determined independently from the executive branch. The resource allocation necessary for its operation constitutes an item within the budget of the General Courts.

B. Non-discrimination (arts. 2, 20 and 26)

1. Regulatory framework

10. On 28 February 2023, Act No. 4/2023, for the full and effective equality of trans persons and the promotion of the rights of lesbian, gay, bisexual, transgender and intersex persons, was adopted. Act No. 4/2023 makes it possible to change one's legally registered gender, even as a minor, without having to submit to medical procedures. It introduces as part of the legal framework the possibility of changing one's legally registered gender and being provided with official documents that reflect the new gender (regulated by art. 43 to 5). Thus, it is now possible for any person with Spanish nationality who is over 16 years of age to make such requests on his or her own initiative before the Civil Registry. Children between 14 and 16 years old may also change their legally registered gender, but must be assisted by their legal representatives; children between 12 and 14 years old must secure court approval before requesting such changes. The Act also provides for the alignment of official documents with the legally registered gender of trans persons and, in the case of persons with disabilities, the provision of support to do so.

11. Previously, the change of a transsexual person's name in the Civil Registry was regulated by the Instruction of the Directorate General for Registries and Notaries of 23 October 2018.

12. Hate crimes are dealt with under article 510 and subsequent articles of the Criminal Code. Article 510 (1) states that hate crimes "shall be punishable by imprisonment for a term of 1 to 4 years and 6 to 12 months' worth of fines".

13. Likewise, this article expressly criminalizes:

- The production, preparation, possession with the purpose of distribution, or sale of material that, owing to the content thereof, is conducive to the aforementioned conduct (art. 510 (1) (b)). Article 510 (1) (b) does not require proof of criminal intent. The requirement of knowledge of falseness or reckless disregard for the truth (as in former article 510 (2)) has been eliminated and the provision now covers material including images.
- Public denial, trivialization or glorification of the crimes of genocide, crimes against humanity or crimes against persons or property protected in the event of armed conflict that are committed against these groups, if such conduct promotes or encourages a climate of violence, hostility or hatred against them (art. 510 (1) (c)).
- The humiliation or disparagement of the aforementioned groups or the production, preparation or possession of material, with the purpose of distributing it, that is liable to offend their dignity (art. 510 (2) (a)).
- The glorification or justification, through any form of public expression or distribution, of the acts referred to in the previous point (art. 510 (2) (b)).

14. These changes, made effective by the adoption of Organic Act No. 1/2015 of 30 March 2015, amending Organic Act No. 10/1995 of 23 November 1995 (the Criminal Code), resulted in an increase in the maximum penalties applicable to the most serious acts (art. 510 (1)). The amendments provide for harsher penalties and specific measures – the destruction, deletion or disabling of files, or the removal and or blocking of content and web pages – in the event that hate crimes are committed using the Internet or other social media, in a manner that makes the material accessible to a large number of people (art. 510 (3) and (6)). Even harsher penalties are provided for in the case of acts that undermine law and order or the sense of security of members of the affected groups (art. 510 (4)). The article expressly establishes the liability of legal persons in such matters (art. 510 bis).

15. Organic Act No. 8/2021 of 4 June 2021, on the comprehensive protection of children and adolescents against violence, expands the forms of discrimination that can give rise to hate crimes. Age has thus been included as a source of discrimination. The law also lists aporophobia (aversion to the poor) and social exclusion in the criminal offences relating to discriminatory acts.

16. Article 515 (4) of the Criminal Code prohibits, per Organic Act. No. 8/2021, any association that directly or indirectly fosters, promotes or incites hatred, hostility, discrimination or violence against persons, groups or associations on the grounds of their ideology, religion or beliefs, national origin, sex, age, sexual or gender orientation or identity, or on the grounds that their members, or any one of their members, belong to an ethnic group, race or nation, or for reasons related to gender, aporophobia or social exclusion, family situation, illness or disability.

17. Article 22 (4)[a] of the Criminal Code, amended by Organic Act No. 6/2022 of 12 July 2022, supplementing the Comprehensive Act for Equal Treatment and Non-Discrimination (Act No. 15/2022 of 12 July 2022), amending Organic Act No. 10/1995 of 23 November 1995 (the Criminal Code), includes, as a generic aggravating circumstance applicable to any type of criminal offence, the commission of such an offence on the basis of racist, antisemitic, anti-Gitano or any other type of discrimination related to the ideology, religion or beliefs of the victim, the victim's ethnicity or race or the nation to which he or she belongs, his or her sex, age, sexual or gender orientation or identity, reasons related to gender, aporophobia or social exclusion, illness suffered or disability, regardless of whether such conditions or circumstances are actually true of the person concerned by the criminal acts carried out against him or her.

18. Given the growing number of hate crimes, the public prosecutor's office adopted Circular No. 7/2019 of 14 May, establishing guidelines for interpreting the hate crimes described in article 510 of the Criminal Code, in order to facilitate solutions to the various problems that the legal definitions of these criminal offences pose in judicial practice.

2. Measures to prevent and address discrimination against persons belonging to ethnic minorities

19. The aforementioned Comprehensive Act for Equal Treatment and Non-Discrimination (Act No. 15/2022), establishes the core tenets of Spanish anti-discrimination law. It covers the basic guarantees and provides for the real and effective protection of victims, focusing on both prevention and redress. Notably, this Act is the first in domestic law to explicitly establish age as a ground for discrimination.

20. Various studies have been conducted on the impact of racism, racial discrimination, xenophobia and other related forms of intolerance on the enjoyment of fundamental rights, for example, “Insights into the Afrodescendent and African population in Spain: identity and access to rights” and “Study on racial discrimination in the area of housing and informal settlements”.

21. The Council for the Elimination of Racial and Ethnic Discrimination, established in 2007, was revived in 2020. Its victim assistance and counselling services have been expanded. The Council also prepares reports on its activities, for instance, its study on the perception of racial or ethnic discrimination by potential victims in 2020, which builds on the work of previous studies.

22. The Spanish Observatory on Racism and Xenophobia collects and analyses data on racism and xenophobia in order to provide an overview of the situation and potential developments. It works with the various public and private actors in this field, nationally and internationally, and develops plans, studies and strategies to foster the inclusion of migrants and related assessments. The Observatory is currently working on the consolidation of the Strategic Framework for Citizenship and Inclusion and against Xenophobia and Racism (2021–2027).

23. It is also involved, at the national level, in the annual monitoring exercise, together with the European Commission, on the application of the 2016 Code of Conduct on countering illegal hate speech online. In addition, it monitors hate speech on a daily basis on social networks and publishes its results every other month. The Observatory also leads several European projects to prevent and combat hate crimes and hate speech on social networks, namely REAL-UP, on hate speech, racism and xenophobia, alert and response mechanisms, including an analysis of counter-narrative strategies; CISDO (Inter-Police and Social Cooperation on Hate Crimes), on building police capacities; and HELCI (Higher Education Learning Community for Inclusion), for promoting the principles of non-discrimination and common European values.

Gitano population

24. The second National Human Rights Plan is aimed, inter alia, at strengthening the equality, inclusion and participation of the Gitano population.

25. Following the evaluation of the National Strategy for the Social Inclusion of the Gitano Population in Spain (2012–2020), the Strategy for the Equality, Inclusion and Participation of the Gitano People (2021–2030) was developed as the new strategic framework for ongoing work in this area.

26. Until 2020, the applicable framework regarding health promotion and equity among the Gitano population was the National Strategy for the Social Inclusion of the Gitano Population in Spain (2012–2020). The health initiatives carried out under the 2018–2020 operational plan of this Strategy were based on the results of the second national health survey of the Gitano population, conducted in 2014, and were agreed with the health unit of the State Council of the Gitano People and the autonomous communities. The Strategy for the Equality, Inclusion and Participation of the Gitano People (2021–2030) is the new framework, and provides for initiatives focusing on health. Its objectives are to improve the state of health and reduce social inequalities in health for the Gitano population, especially among children and older Gitanos, and to reduce healthcare discrimination against the Gitano population. The Strategy includes, in its operational plan for the period 2023–2026, guidelines for health-related initiatives.

27. In order to better understand the Gitano population's state of health and to identify new challenges and priorities, preparations are being made to conduct a third national health survey of the Gitano population. In order to increase the visibility of this community's health needs, they have been incorporated into different strategies, programmes and State-run health plans or plans with an impact on health, such as the Strategy for Preventive Health and Health Promotion of the National Health Service and the National Strategy for Preventing and Combating Poverty and Social Exclusion (2019–2023).

28. The online course "Equity in Health: Learning with the Gitano People" has been held twice. It is one of several initiatives designed to increase the training and awareness of health professionals regarding anti-Gypsyism and ways in which they can incorporate an equitable approach in their work. Several conferences and training courses have been carried out by the autonomous communities in this area, together with organizations and associations of the Gitano people, such as the Equi-Sastipen-Rroma network.

29. Since 2018, the call for grants to local entities, under the framework of the annual agreement between the Ministry of Health and the Spanish Federation of Municipalities and Provinces for the enhancement of the Spanish Healthy Cities Network and the local implementation of the strategy for the promotion of health, including preventive health, has made initiatives involving the Gitano population a priority.

30. In November 2019, a meeting on health and the Gitano population took place, focusing on the social determinants of health and the participation of the Gitano population; it concluded with the reading of the "Declaration of Oviedo: Social Determinants in Diagnosis and Community Participation in Finding Solutions", a document aimed at promoting initiatives for the health and well-being of the Gitano population.

31. In 2023, the Special Government Office on Gender-based Violence published a study on gender violence in the Gitano population, aimed at yielding insights into the manifestation of gender violence in the Gitano population, in order to facilitate its early detection, access to specialized resources and the recovery and protection of victims.

3. Measures adopted to eliminate and punish the practice of discriminatory identity checks and other forms of unequal treatment

32. Organic Act No. 4/2015 of 30 March 2015, the Public Safety Act, empowers the competent authorities to agree on actions aimed at maintaining and restoring the peace in cases of public insecurity, by establishing the budgets, objectives and requirements for such actions, in accordance with the principles of proportionality, minimum interference and non-discrimination.

33. The Public Safety Act states that the public authorities and other bodies competent in matters of public safety and the members of the State security forces are to exercise the powers ascribed to them under the Act in accordance with the principles of legality, equal treatment and non-discrimination, opportunity, proportionality, effectiveness, efficiency and responsibility, and their actions will be subject to administrative and jurisdictional control. Thus, in Spain, identity checks based on ethnic or racial profiling are prohibited. The only checks to which citizens are subjected are based on rules that protect legal rights and not on their racial or ethnic origin. Agents may require individuals to produce an identity document only in the following cases:

(a) When there are signs that they may have participated in the commission of a crime;

(b) When, in view of the circumstances, it is considered reasonably necessary for them to establish their identity in order to prevent the commission of a crime.

34. The above is also in line with the National Police and Civil Guard codes of ethics of 2013 and 2022, respectively, and their express references to the principles of equality and non-discrimination and to supranational police ethical standards of the United Nations and the Council of Europe.

35. State Secretariat for Security Instruction No. 1/2024, which establishes the comprehensive procedure for police custody, describes the procedure for keeping a record of

police actions carried out in respect of persons deprived of their freedom of movement, that is, not only detainees, but also at-risk minors and persons with disabilities and persons transferred to police facilities for identification purposes. It also repeals State Secretariat for Security Instruction No. 14/2018, regulating official record books.

36. Act No. 15/2022 states that the State security forces are to avoid the use of discriminatory profiling without objective justification. The punishment of conduct leading to related violations is expressly provided for both in the Criminal Code and in the disciplinary systems of the State security forces.

37. In accordance with State Secretariat for Security Instruction No. 1/2022, under which the National Human Rights Safeguarding Office was established, the protection and promotion of human rights is a priority for the State Secretariat for Security. The Office also governs the procedures and responsibilities involved in the oversight, monitoring and exploitation of the software application of the National Human Rights Plan, as well as any records created using the application. Any complaint about the actions of the State security forces that may reveal an alleged violation of the fundamental rights of individuals must be recorded in the application.

38. Royal Decree No. 951/2005 provides for the introduction of quality programmes to aid in the early detection of errors and dysfunctions by the State security forces. Complaint and suggestion forms, available in all units of the State security forces, may be submitted in relation to the unsatisfactory provision of services; each case is examined individually, without prejudice to the legal and/or disciplinary proceedings that may arise from the facts.

39. The Human Rights and Equality Unit of the National Police and the Human Rights, Equality and Diversity Unit of the Civil Guard, dedicated to training on and promotion of equal treatment and respect for human rights, have been established.

4. Measures to prevent and combat hate speech and the dissemination of racist, xenophobic and antisemitic messages

40. The National Office for Combating Hate Crimes, established in 2018, promotes and coordinates the prevention of investigation into and training on hate crimes by the State security forces; it also constitutes a point of contact for national and international institutions working in this area. In addition, this National Office oversees and encourages the use of the protocol for action by the State security forces in response to hate crimes and conduct that violates anti-discrimination laws, which was updated in June 2023.

41. The first Action Plan to Combat Hate Crimes (2019–2021), comprising 54 measures, was adopted in 2019.

42. In April 2022, by means of State Secretariat for Security Instruction No. 5/2022, the second Action Plan to Combat Hate Crimes (2022–2024) was adopted. It was drawn up with the participation and input of state and autonomous community police forces, the office of the Special Prosecutor and civil society organizations.

43. The second Action Plan promotes training and awareness-raising for the State security forces regarding the protocol for action by the State security forces in response to hate crimes and conduct that violates anti-discrimination laws, approved in 2020. It also focuses on strengthening ties with civil society organizations to raise public awareness of the need to report such crimes.

44. The National Police and the Civil Guard are working with the National Office for Combating Hate Crimes to create a common database on the symbols of radical groups (e.g. homophobic, racist or antisemitic) in compliance with the measures set out in the aforementioned Action Plans. In addition, Violent Extremism and Hate Response Teams and Hate Crime Response Teams have been set up by the National Police and the Civil Guard, respectively.

45. In September 2018, the agreement on institutional cooperation to combat racism, xenophobia, lesbian, gay, bisexual, transgender and intersex phobia and other forms of intolerance was renewed. Since then, the agreement has been signed by the General Council

of the Judiciary, the Attorney General's Office, the Legal Studies Centre and various ministries.

46. Regarding collaboration with European and international institutions, the following may be highlighted:

- The National Office for Combating Hate Crimes has worked with the European Union Agency for Fundamental Rights on publications such as the *Compendium of practices for combating hate crime* and participated in the European conference on antisemitism held in May 2022. It promotes police training, including the "Training against Hate Crimes for Law Enforcement" programme, developed by the Organization for Security and Cooperation in Europe, and the courses offered by the European Union Agency for Law Enforcement Training; the development of tools to detect hate speech in networks; the prevention of any type of discrimination; and the exchange of best practices with other European countries and agencies.
- It contributed to the preparation of the compendium of good practices for the sub-working group on the implementation of the "EU Anti-Racism Action Plan 2020–2025".
- The National Office for Combating Hate Crimes continues to actively participate in the European Commission's high-level group on combating hate speech and hate crime.
- In February 2023, the launch of the European CISDO project "Inter-police and social cooperation against hate crimes" was held at the Ministry of the Interior. The overarching goal of this two-year project, led by the Spanish Observatory on Racism and Xenophobia, is to build the capacities of the State security forces, nationally and locally, to prevent, identify, mediate and combat racist and xenophobic incidents, especially hate speech and hate crimes. The specific objectives are to increase cooperation and the sharing of information between the State security forces and civil society organizations specializing in attending victims of hate crimes.
- It is a partner in the European SCORE (Sporting Cities Opposing Racism in Europe) project, which is aimed at creating a coalition of European cities and local entities for the promotion of inclusive sport and the prevention of and fight against racism, xenophobia and related intolerance in the field of sport.
- It also participates in the "Combating Hate Speech in Sport" project operated by the Council of Europe and led by the High Council for the Ministry of Education, Vocational Training and Sport, which seeks to work with the various actors concerned to reduce and eliminate hate speech in sport.

Combating hate speech on the Internet

47. The National Office for Combating Hate Crimes has set itself up as a "trusted flagger" of social media and, in 2022, it participated in the seventh evaluation of the Code of Conduct on countering illegal hate speech online. It also participates in the aforementioned REAL-UP project and has promoted social media campaigns against hate crimes.

48. In 2021, Spain adopted a digital rights charter, which recognizes the novel challenges of application and interpretation involved in adapting rights to the digital environment, and suggests principles and policies in that regard. It focuses on the different challenges posed by the development of the digital environment, with regard to the protection of children and adolescents from harmful or dangerous content, including behaviour related to hate speech, and the management of illegal content made available by providers of electronic communications services that infringes on the rights and interests of third parties.

49. A protocol for combating illegal hate speech online was also published, with a view to providing guidance on cooperation and collaboration between institutional actors, civil society and data hosting service companies.

Tools

50. Units dealing with discrimination and hate crimes have been set up within all provincial public prosecutor's offices, and a divisional special prosecutor has been appointed to oversee coordination at the national level. A network of special prosecutors for the legal protection of equality and the prevention of discrimination fights for harmonized prosecution and punishment throughout the national territory. In addition, the office of the special prosecutor for hate crimes is responsible for coordinating the activities of the prosecutors in the network; identifying hate crimes and monitoring related statistics; following up on the processes and proceedings initiated for hate crimes; and fulfilling the obligations of Spain under international treaties and those established in the norms that make up the Spanish domestic legal system, as well as the requirements derived from the case law of the European Court of Human Rights. In April 2024, the first conference of the network of special prosecutors for hate crimes and discrimination was held at the Attorney General's headquarters.

51. It should be noted that the Attorney General's Office adopted, by Circular No. 1/2021 of April 8, the deadlines for judicial investigation under article 324 of the Criminal Procedure Act. This makes it possible to balance the protection of the fundamental rights of the parties to the proceedings, in particular, the right to be tried without undue delay, with the proper investigation of crimes, especially those of particular complexity.

52. In terms of the protection of victims, complainants are protected under Spanish criminal and procedural law. Court proceedings must provide for all the safeguards set out in the Criminal Procedure Act. The protection measures laid down in Act No. 4/2015 of 27 April 2015 on the status of victims of crime may also be applied.

53. Since 2019, assistance units for victims of crime of the Ministry of Justice have established a channel of communication and coordination for the potential assistance to victims of a hate crime with the delegates of citizen participation of the National Police and with the delegates and coordinators of the Civil Guard dealing with hate crimes. This cooperation with the Ministry of the Interior ensures that any victim of a hate crime has access to the assistance units for victims of crimes or to the facilities of the autonomous communities with devolved powers.

54. In July 2022, a guide for the assistance units for victims of crimes, setting out recommendations for improving the justice system's support of victims, was adopted. Several working groups were also set up; these working groups are developing information campaigns to make the assistance units for victims of crimes more visible to the public.

Statistical data

55. Since 2013, a report on hate crimes has been published by the Ministry of the Interior on an annual basis. The report includes information on the complaints received by the State security forces, as well as on the victims and perpetrators (age, gender and nationality). According to the last report for 2023, which contained data for 2022, a total of 1,869 events, or 3.7 per cent, were registered; of those, 1,796 were hate crimes and 73 were administrative offences and other minor incidents. They are broken down as follows:

- Anti-Gypsyism: 22
- Antisemitism: 13
- Aporophobia (aversion to the poor): 17
- Religious beliefs or practices: 47
- Persons with disabilities: 23
- Age discrimination: 15
- Discrimination on the basis of illness: 11
- Sexual or gender discrimination: 189
- Ideology: 245

- Sexual orientation and gender identity: 459
- Racism/xenophobia: 755

56. The Attorney General's Office is taking steps to improve the recording of hate crime data in order to establish a unified system for the collection of statistical data.

57. The working group on the analysis of sentences and the collection of statistical data examines the traceability of proceedings, from the receipt of the complaint to its finalization by dismissal or sentencing, in order to ensure better monitoring of all proceedings initiated for discrimination and hate crimes and to facilitate the harmonization of statistical data.

C. Violence against women (arts. 2, 3, 6, 7 and 26)

1. Steps taken to prevent, combat and punish violence against women

58. In 2022, Organic Act No. 10/2022 of 6 September 2022, on the comprehensive guarantee of sexual freedom, was enacted. This law comprehensively addresses awareness, prevention, detection and punishment of sexual violence, including in the digital environment, in addition to all measures aimed at providing assistance, care, protection and reparation for victims of sexual violence.

59. Prior to the adoption of this law, in line with the State Pact against Gender-based Violence, the Protocol for Police Risk Assessment, Victim Safety Management and Case Monitoring through the VioGén system (State Secretariat for Security Instruction No. 4/2019) came into force in March 2019. Since the Protocol's entry into force, the State security forces have had a well-developed risk assessment tool, which is integrated into the VioGén system. Its purpose is to identify the most serious cases, which are flagged by the tool as situations of particular vulnerability or risk. Children are thus included in police risk assessments of victims [annex II]. In addition, improvements have been made to the new police risk assessment forms (VPR5.0 Dual and VPER4.1) and a new form for forensic use (Forensic Risk Assessment-VFR) has been incorporated into the VioGén system to ensure a more coordinated approach to the assessment and management of risk by police officers and the Institutes of Forensic Medicine and Science.

60. The Ministry of Equality, through the Special Government Office on Gender-based Violence, maintains a hotline run by trained staff who offer information, legal advice and immediate psychosocial care in respect of all forms of violence against women. Callers can use the short number 016 or the WhatsApp number 600 000 016. Contact can also be made via an online chat on the website of the Special Government Office on Gender-based Violence or using the following email address: online@igualdad.gob.es.

61. In addition to the measures taken under the State Pact against Gender-based Violence, the State Secretariat for Security publishes new statistics on cases of gender-based violence of special relevance and cases involving minors in the care of victims who are vulnerable or at risk. [annex IV, statistical data on victims (2015–2021) by events associated with violence; annex II, cases of gender-based violence registered in the VioGén system, from its implementation in July 2007 until 31 August 2023].

62. Legal framework:

- Organic Act No. 3/2020 of 29 December 2020, amending Organic Act No. 2/2006 of 3 May 2006, on education, sets out actions aimed at responding to the measures taken under the State Pact against Gender-based Violence in the educational field (pillar 1 measures).
- Act No. 6/2021 of 28 April 2021, amending Act No. 20/2011 of 21 July 2011, on the civil registry, facilitates surname changes for victims of gender-based violence or their children who live or who previously lived in the family household.
- Organic Act No. 8/2021, on the comprehensive protection of children and adolescents against violence, includes a reference to the so-called parental alienation syndrome (art. 11): "The public authorities shall take the necessary measures to prevent theories or concepts without scientific backing that presume adult interference or

manipulation, such as the so-called parental alienation syndrome, from being taken into consideration.”

- Act No. 8/2021 of 2 June 2021 amends civil and procedural legislation to support persons with disabilities to exercise their legal capacity. Article 94 of the Civil Code has been amended to establish that no visiting or living arrangements will be established and, if such arrangements exist, they will be suspended, with respect to a parent who is involved in criminal proceedings for threatening the life, physical integrity, freedom, moral integrity or sexual freedom and integrity of the other parent or of the children living with them. Furthermore, article 156 of the Civil Code has been amended so that consent from an abusive parent regarding their minor children’s psychological assistance and care is no longer required if the children are recognized as victims by the specialized services.

63. Since 2022, the Special Government Office on Gender-based Violence has expanded the statistical data available on femicides to include all forms of violence against women. The following types of femicide are included: intimate partner or ex-partner femicide, family member femicide, sexual femicide, social femicide and vicarious femicide.

64. The State Strategy for Combatting Gender-based Violence 2022–2025 has also been approved.

65. Once a complaint has been filed by a victim or a third party or ex officio by a police officer, the VioGén system applies the necessary police protection measures to both the victim and any minors in their care, without first requiring a court decision.

66. In line with the State Pact against Gender-based Violence, the Personalized Safety Plan encourages the victim’s participation, aiming to take into account personal circumstances and any special protection needs, including those of dependent minors.

67. Instructions that establish guidelines and measures to be implemented during police operations:

- State Secretariat for Security Instruction No. 2/2021, on strengthening police interventions in respect of gender-based violence and victim management.
- State Secretariat for Security Instruction No. 5/2021, which establishes the protocol for initial police contact with victims of gender-based violence in a vulnerable situation (Protocol Zero), for the appropriate channelling of information so as to minimize the risk to victims in a vulnerable situation and facilitate complaints in complex cases.
- State Secretariat for Security Instruction No. 8/2021, which establishes measures to prevent gender-based violence by persistent abusers.
- State Secretariat for Security Instruction No. 11/2022, which updates risk management procedures to be followed in so-called “resistant cases”.
- State Secretariat for Security Instruction No. 1/2023, which expands the obligation to communicate the abuser’s background to the victim in so-called “persistent abuser” cases.
- In June 2023, the first Strategic Plan for the Prevention of Sexual Violence (2023–2027) was approved and implemented through State Secretariat for Security Instruction No. 5/2023.

Women and girls with disabilities

68. In April 2022, the National Disability Observatory issued a publication entitled “Diagnostic study: the trafficking of women and girls with disabilities for the purpose of sexual exploitation in Spain”, which states that the primary obstacle encountered in addressing and analysing the situation of women and girls with disabilities who are victims of sexual exploitation is the absence of reliable, up-to-date and standardized information, and that these victims are extremely vulnerable as a result.

69. The third pillar of the Spanish Disability Strategy 2022–2030, adopted in 2022, is "Equality and Diversity" and it is aimed at ensuring that women and girls with disabilities have equal access to their rights and eradicating violence and discrimination against them, in line with the Sustainable Development Goal to achieve gender equality and empower all women and girls.

70. The actions proposed to reach that goal include developing a plan on equal opportunities for women and girls with disabilities; promoting and extending protocols on coordination and specific training relating to disability and gender; promoting and supporting training and comprehensive support programmes for women and girls with disabilities to ensure that any acts of violence against them are identified and reported and to enable victims to resume or rebuild independent lives free of violence; improving the accessibility of services and facilities for women and girls who are victims of violence, including shelters, victim care services and complaint and grievance mechanisms; and undertaking a specific large-scale survey on violence against women and girls with disabilities.

71. The Spanish Disability Strategy also adopts an intersectional approach to the different barriers and forms of discrimination faced by women with disabilities. The activities planned in that regard include a survey on male violence against women with disabilities, social awareness-raising measures, the adaptation of information and dissemination channels, improvements to access to specialized resources and the adaptation of those resources, paying particular attention to women with disabilities in prisons.

72. Royal Decree No. 888/2022 of 18 October, establishing the procedure for the recognition, declaration and assessment of degrees of disability was adopted in October 2022. Article 10 of that Royal Decree provides for the urgent recognition of the degrees of disability of victims of gender-based violence since, according to the latest large-scale survey on violence against women, 17.5 per cent of victims have a disability caused by such abuse.

Migrant women

73. The pillar on equal treatment and protection for specific groups of the second National Human Rights Plan 2023–2027 includes a specific objective on the protection of the rights of migrants, refugees, asylum-seekers and persons in receipt of humanitarian assistance.

74. The promotion and protection of migrant women's rights are also addressed under the State Pact against Gender-based Violence. Foreign victims may lodge complaints and enjoy equal access to their rights as victims.

75. Among the regulatory developments that encourage foreign victims to lodge reports is Royal Decree-Law No. 9/2018 of 3 August on urgent measures for the development of the State Pact against Gender-based Violence, which expands the list of individuals authorized to verify instances of gender-based violence.

76. Efforts have also been intensified to minimize language barriers and facilitate reporting by foreign women who are victims of gender-based violence by ensuring the availability of interpreters. The Personalized Safety Plan, intended to inform victims of self-protection measures, is available in several languages. Sign-language and easy-to-read versions are also being developed, and a communication book featuring pictographs has also been produced to support persons with autism and their families, regardless of the language that they speak.

77. The following instrument should be noted:

- State Secretariat for Security Instruction No. 7/2019 establishing the procedure to be followed by the State security forces in compliance with article 131 of Royal Decree No. 557/2011 of 20 April, and in accordance with the regulations set out by the Public Prosecutor's Office for Violence against Women, to provide information to victims of gender-based violence on the right to apply for temporary residence and work permits. The Instruction allows for the VioGén system to be linked to updated records in the Central Register of Foreigners in order to afford a police unit that receives a complaint a minimum level of information regarding the victim's administrative situation so that it may be recorded in the report and made available to the judicial and prosecutorial authorities prior to the hearing on possible protection orders.

2. Implementation and results of the State Pact against Gender-based Violence

78. Five years after the State Pact against Gender-based Violence came into force, the Government Office on Gender-based Violence prepared an assessment report on the action taken by the Government thus far. Of the 290 total measures, 189 (65.2 per cent) had been completed, 85 (29.3 per cent) were under way, 6 (2.1 per cent) were outside the scope of the Government, and 10 (3.4 per cent) were pending.

3. The 2016 "La Manada" ("Wolf Pack") case

79. On 21 June 2019 the Supreme Court issued a ruling on the appeal against the judgment handed down by the Navarre High Court in the "La Manada" case. The Supreme Court convicted the five defendants of the continuing crime of rape, established in articles 178 and 179 of the Criminal Code, with the specific aggravating factors established in article 180 (1) (1) (humiliating or degrading treatment of the victim) and article 180 (1) (2) (joint action of two or more persons). The Supreme Court sentenced the perpetrators to 15 years' imprisonment; general disqualification for the duration of the sentence; a 20-year ban on coming within 500 metres of the victim, her home, workplace or any other place frequented by her; a ban on communicating with her by any means, whether written, verbal or visual; and 8 years' probation. Compensation of €100,000 was awarded. It was the view of the Supreme Court that the facts established in the ruling constituted the crime of rape.

80. Organic Act No. 10/2022 of 6 September 2022, on the comprehensive guarantee of sexual freedom, provides a framework for the prevention and punishment of sexual violence with a view to its eradication. One of the fundamental concepts around which this regulation revolves is consent – a fundamental principle on which crimes against sexual freedom are established. The Act eliminates the distinction made in the Criminal Code between sexual abuse and sexual aggression and also makes changes to the crime of rape, which no longer derives from the use of violence or intimidation, but from a lack of consent.

D. Voluntary termination of pregnancy (arts. 3, 6, 7, 17 and 26)

81. Organic Act No. 1/2023 of 28 February 2023 was published on 2 March 2023. It provides for the amendment of Organic Act No. 2/2010 of 3 March 2010 on sexual and reproductive health and the voluntary interruption of pregnancy, establishing the obligation of the public health authorities to take action within their respective areas of competence to guarantee the provision of free and accessible abortion services in hospitals.

82. Another of the amendments introduced through Organic Act No. 1/2023 establishes forced sterilization and abortion and the forced use of contraception as forms of reproductive violence against women. The Act is particularly relevant for women with disabilities, since some of its focuses include the adoption of a gender-based approach, the prohibition of discrimination, the handling of multiple and intersectional forms of discrimination and accessibility.

83. Furthermore, the twelfth final provision of Organic Act No. 1/2023 amends Basic Act No. 41/2002 of 14 November 2002 regulating patient autonomy and rights and obligations in the area of clinical information and documentation. It does so by removing from article 9 (5) the paragraph that required minors and women with disabilities to obtain the express consent of their representatives in order to proceed with the voluntary termination of a pregnancy.

84. Pursuant to Organic Act No. 2/2020 of 16 December 2020 on the amendment of the Criminal Code to end the forced or non-consensual sterilization of persons with disabilities who do not have legal capacity, the second paragraph of article 156 of the Criminal Code, which decriminalized non-consensual sterilization, has been deleted. The single transitory provision of Organic Act No. 2/2020 provides for the termination of relevant legal proceedings that, in accordance with the first additional provision of Organic Act No. 1/2015 of 30 March 2015, amending the Criminal Code, were ongoing but had not been completed at the time of its entry into force; full freedom to decide whether or not to undergo medical treatment is restored to the individual concerned. A subsequent development was the adoption of Act No. 8/2021 of 2 June 2021, which provides for the amendment of civil and

procedural legislation to support persons with disabilities in the exercise of their legal capacity.

E. Children with variations of sex characteristics (intersex)

85. Royal Decree No. 1030/2006 of 15 September 2006, establishing the list of core services provided by the National Health System and the procedure for updating this list, provides that, in accordance with article 5 of Act No. 44/2003 of 21 November 2003, on the organization of health professions, professionals are obliged to make rational use of the diagnostic and therapeutic resources under their responsibility and to avoid using them inappropriately. In addition, they must offer sufficient and appropriate information in order to ensure that persons in their care are able to exercise their right to consent to decisions affecting them, as provided for in Basic Act No. 41/2002 of 14 November 2002, regulating patient autonomy and rights and obligations in the area of clinical information and documentation, and in compliance with Organic Act No. 15/1999 of 13 December 1999, on the protection of personal data.

86. Act No. 4/2023 provides that the healthcare received by intersex persons should be based on a non-pathologizing approach and should observe the principles of autonomy, informed decision-making and consent, non-discrimination, holistic care, quality, specialization, proximity and non-segregation.

87. No genital modification procedures may be performed on a minor under 12 years of age unless medical indications require otherwise for the purpose of protecting the minor's health. If the minor is between 12 and 16 years of age, such procedures may be performed only at the minor's request, provided that, given his or her age and maturity, he or she is able to give informed consent to the procedure. In cases in which they do not constitute a crime, violations of this prohibition are considered a very serious administrative offence. Before beginning any treatment that could compromise the reproductive capacity of intersex persons, steps shall be taken to ensure that they have a real and effective opportunity to have their gonadal tissue and reproductive cells frozen so that they can be used in the future.

F. Right to life and prohibition of torture and other cruel, inhuman or degrading treatment or punishment (arts. 6, 7, 19 and 21)

1. Measures adopted to end the practice of forced or non-consensual sterilization

88. Organic Act No. 2/2020 of 16 December 2020, on the amendment of the Criminal Code to end the forced or non-consensual sterilization of persons with disabilities who do not have legal capacity, has been adopted.

2. Measures to prevent and eradicate torture and ill-treatment

89. Since 2016, the Inspectorate for Security Personnel and Services has been responsible for overseeing and monitoring the implementation of the National Human Rights Plan. The entry into force of State Secretariat for Security Instruction No. 1/2022 led to the establishment of the procedure for the collection and recording of all the necessary data concerning incidents or conduct during policing operations that might entail violations of individuals' fundamental rights. Under the current configuration of this database, the statistics recorded for the period from 1 January 2016 to 1 September 2022 concerning the complaints made against members of the State security forces for acts of torture, ill-treatment and inhuman or degrading treatment are as follows:

- 125 public officials reported (74 from the National Police; 51 from the Civil Guard)
- Criminal proceedings:
    - Acquittals: 20
    - Convictions: 5
    - Dismissals: 64

- Ongoing: 36

- Disciplinary proceedings:
  - Opened: 16
  - Ongoing: 8
  - Resolved with sanctions: 4
  - Resolved without sanctions: 3
  - Suspended: 1

90. Between 2015 and 2022, the inspection teams of the Inspectorate for Security Personnel and Services made around 100 annual visits to the various detention facilities run throughout Spanish territory by the directorates general of the National Police and the Civil Guard. The reports produced indicated the degree of effective compliance with the standards of conduct for personnel in charge of the custody of detainees and suggested possible areas for improvement. There is also a working group, composed of representatives of the Inspectorate for Security Personnel and Services and the State security forces, that is taking steps to better safeguard the human rights of individuals who are taken into custody.

91. The action by the State security forces in Catalonia on 1 October 2017 was taken in strict compliance with a judicial mandate, specifically an order of the Catalonia High Court of Justice instructing the Civil Guard and the National Police to take the necessary measures to stop the referendum, which had been cancelled by the Constitutional Court.

92. All the complaints made in Catalonia in relation to the action of the State security forces on 1 October 2017 were brought together in a single case to be heard by Court of Investigation No. 7 in Barcelona. The legal proceedings are currently ongoing, and a verdict has not yet been reached.

93. State Secretariat for Security Instruction No. 1/2024 adopting the comprehensive police custody procedure, regulates the protocol for police officers and personnel in charge of the custody of detainees being held in the facilities of the State security forces, with a view to guaranteeing those detainees' rights and safety. This Instruction superseded State Secretariat for Security Instruction No. 4/2018 updating the protocol for action in the places of deprivation of liberty of the State security forces.

Human rights training

94. Steps taken to promote human rights and equality within the National Police include the establishment of the Human Rights and Equality Unit, which is made up of the National Human Rights Office and the National Office for Gender Equality. The key focuses of the work of both national offices include training and awareness-raising.

95. The Human Rights and Equality Unit has designed a comprehensive plan on human rights training, which includes specific human rights training courses, online training and lectures.

96. The National Police provides training on human rights and humanitarian law to new recruits, promoted staff and those wishing to specialize.

97. All Civil Guard personnel, upon acceding to different ranks, follow a training curriculum that includes the study of topics relating to human rights and the prevention of torture and ill-treatment. Individuals from outside the Civil Guard who are training to be officers are provided with a total of 103 hours of teaching on such topics. Training courses are also run for those wishing to obtain a promotion. This means that a member of the Civil Guard receives a minimum of 82 hours, and a maximum of 157 hours, of training on human rights, including on the prevention of torture and ill-treatment. In order to develop horizontal career paths, 11 specialization or ongoing training courses on these topics have been delivered to 20,534 civil guards.

98. The priority objectives set out in the annual action plans of the Inspectorate for Security Personnel and Services include conducting inspections and carrying out monitoring and assessment activities with a specific focus on human rights. Furthermore, external

training events and information sessions are organized during inspection visits to different units, with the aim of raising awareness among police personnel and improving the quality of the checks carried out. With regard to the monitoring and follow-up of incidents involving the State security forces, the Inspectorate for Security Personnel and Services conducts documentary investigations to determine the circumstances that may have caused such incidents.

99. Instruction on human rights forms part of the mandatory training for the various positions available within the prison administration service and is one of the priority areas in the annual training plan, being delivered as part of initial and ongoing training and covering personnel at all levels.

100. During the period from 2015 to 2023, 100 per cent of newly recruited personnel received such training. The exceptional situation arising from the coronavirus disease (COVID-19) pandemic substantially affected training activities, with the recovery beginning in 2022 (see annex III for total data on the initial and ongoing training provided from 2015 to 2023).

Terminology

101. The possibility to file a complaint, as understood in the sense of Royal Decree No. 951/2005 of 29 July 2005, establishing the general framework for improving quality in the central Government, is open to all citizens, regardless of their status as an interested party, in the event of any delays, abuses or other type of irregular conduct encountered in the operations of the public authorities.

102. As established by State Secretariat for Security Instruction No. 8/2019 of 22 May 2019, issuing a guide to good practices in handling complaints and suggestions, incidents that should be considered exclusively by the judicial (criminal) or administrative (disciplinary) authorities fall outside the scope of the complaints mechanism referred to above and are to be handled in line with the specific procedures laid down in the existing regulations.

Action taken

103. Whenever an act constituting a criminal offence by a member of the State security forces comes to light, the Inspectorate for Security Personnel and Services is responsible for notifying the relevant directorate general and monitoring and supervising the proceedings. It may call for disciplinary proceedings to be initiated if it considers that there could be evidence of disciplinary liability. During the period from 2015 to 2022, a total of 81 cases reported through the complaints mechanism were referred to the criminal justice system.

Reparations and rehabilitation services

104. The Criminal Procedure Act provides for civil actions brought to seek redress for injury caused by the commission of an offence and compensation for harm suffered because of it. As torture is an offence perpetrated by public authorities or officials (Criminal Code, art. 175), if a public official causes injury under criminal law, the government body to which he or she is assigned is secondarily liable (Criminal Code, art. 121).

105. Article 1 of Act No. 4/2015 on the status of victims of crime establishes that the Act applies to all victims of crimes that were committed in Spain or may be prosecuted in the country.

106. Assistance units for victims of crimes handle all types of crime, in particular gender-based and domestic violence, and are staffed by specialist public officials and professionals.

Measures to guarantee the impartiality of forensic examinations

107. Regarding access to medical examinations, article 520 (2) of the Criminal Procedure Act establishes the right of all detained persons or prisoners “to be examined by the forensic doctor or legal substitute thereof, or, failing that, by the doctor of the institution where the detained person or prisoner is located, or by any other doctor employed by the State or another public authority”. Article 520 bis (3) of the Criminal Procedure Act establishes that the

competent judge may request information on the condition and situation of the detainee at any time during the detention and may verify the matter personally. Article 527 (2) contains the same provision for cases where the detainee is held incommunicado. Accordingly, detainees whose right of communication is restricted shall undergo at least two medical examinations every 24 hours (article 527 (3) of the Criminal Procedure Act). The competent judge must have access at least every 12 hours to a report on the physical condition of the incommunicado detainee, issued by the forensic doctor.

108. Article 479 of the Criminal Procedure Act defines forensic doctors as career civil servants who help to administer justice. In order to ensure that their duties are performed appropriately, forensic doctors must be under the orders of judges and prosecutors and must act on such orders independently and in accordance with strictly scientific criteria. Accordingly, forensic doctors who examine persons deprived of their liberty are required to report any signs of torture or inhuman or degrading treatment.

109. Royal Decree No. 650/2023 of 18 July 2023 approving the protocol for the forensic medical examination of detainees was adopted on 20 July 2023. It provides for the adaptation of the relevant tasks and procedures to current regulations, the most recent international standards, the use of new technologies and the circumstances and needs of detainees.

110. The management tool (ORFILA) of the Institutes of Legal Medicine and Forensic Sciences, under the Ministry of Justice, contains document "templates" including a "forensic medical report on detainees" and an "informed consent" form that incorporates the recommendations of the Manual on the Effective Investigation and Documentation of Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Istanbul Protocol) into the guidelines for the medical assessment of torture and ill-treatment that accompany it. The model report also allows for photographic records to be included.

Prohibition of the granting of pardons for acts of torture

111. The relevant regulations are contained in the Act of 18 June 1870 setting out rules on the use of pardons. This Act was amended by Organic Act No. 1/2015, which established the requirement for the Government to provide the Congress of Deputies with a report on the granting and denial of pardons every six months.

112. The processing of a pardon comprises two phases. In the first phase, which is administrative in nature, the Ministry of Justice follows a regulated procedure. In the second phase, a political decision is made by the Council of Ministers. This means that the granting of pardons falls within the competence of the Council of Ministers, which must explain the grounds, namely justice, equity or public convenience, as provided for by law, on which it made its decision. Such grounds cannot be invoked to pardon acts of torture. Since 2013, no pardons have been granted to persons convicted of the crime of torture.

Use of video recordings during interrogations

113. Spain has not implemented a formal police interrogation model. Criminal procedure law establishes a procedure for taking statements from or, in the case of minors, examining persons who have been detained or are under investigation, in the presence of a lawyer. It does not provide for the video recording of such processes.

114. State Secretariat for Security Instruction No. 1/2024 , adopting the comprehensive police custody procedure, updates the protocol regulating the recording of detainees in custody, with the aim of ensuring the safety and physical well-being of persons deprived of their liberty and of the police staff responsible for their custody.

Identification of members of the law enforcement and security forces

115. It is clearly set out in State Secretariat for Security Instruction No. 13/2007, on the display of personal identification numbers on the uniforms of the State security forces, that all members of those forces who wear uniforms must ensure that their personal identification number, as indicated on their professional identity cards, is displayed in a clearly visible place on their clothing and can be read without difficulty by the public. They are obliged to do this in order to ensure fulfilment of the right of citizens to be able to identify, at all times and

without any explicit request, the agents who are carrying out an operation or providing a service.

3. Provisions of the Amnesty Act (Act No. 46/1977)

116. Article 607 bis (2) of the Criminal Code defines torture as a crime against humanity and sets out the corresponding penalties. For the purposes of this article, torture is understood as the subjection of a person to physical or mental suffering. The penalty provided for therein is imposed without prejudice to any penalties imposed for violations of the victim's other rights. Consequently, in such cases, application of the statute of limitations would be excluded (article 131 (3) of the Criminal Code). In cases in which torture is presented as a separate offence, a statute of limitations is applied. This statute of limitations, however, is very long – 15 years, as set out in article 131 (1) of the Criminal Code – since, in addition to the prison sentence attached to it, it carries an accessory penalty of disqualification of 8 to 12 years.

117. In Spain, complaints concerning human rights violations may be made at police stations and directly to the courts. These complaints are always referred to the territorial courts of investigation, which are responsible for investigating them in the same way as any other crime.

118. With regard to the provision of comprehensive reparations for victims of the Spanish Civil War and the repression under the Franco dictatorship, a series of regulations were passed between 1977 and 2007, meaning that, by 2021, almost €22 billion had been disbursed as financial reparations for 608,000 recognized victims.

119. Act No. 52/2007 of 26 December 2007 established measures to ensure recognition and moral reparations for all persons who were condemned, punished or subjected to any form of personal violence during the Civil War and the dictatorship on grounds of their political, ideological or religious beliefs. This Act has been complemented by specific regional laws aimed at meeting the needs and protecting the cultural memory of each autonomous community.

120. The Democratic Memory Act (No. 20/2022 of 19 October 2022) was adopted with the aim of ensuring the continuity of efforts in this area and governing the application of the relevant laws and regulations in force. This Act provides for an inventory of the property seized from individuals and an investigation into the plundering that took place and the economic sanctions imposed during the Civil War and the dictatorship so that measures can be introduced to ensure the recognition of the individuals affected.

121. With regard to the promotion of investigations into past human rights violations, numerous studies have been supported by the public authorities, always with the aim of facilitating the reparation and recovery of victims. Such studies include: *Libro Memorial. Españoles deportados a los campos nazis (1940–1945)* (Memorial book. Spaniards deported to Nazi camps (1940–1945)), Ministry of Culture. The list of Spaniards who died in the camps was published in the Official Gazette on 6 August 2019; *El botín de guerra en Andalucía: cultura represiva y víctimas de la Ley de Responsabilidades Políticas, 1936–1945* (The spoils of war in Andalusia: Culture of repression and victims of the Political Responsibilities Act, 1936–1945), government of Andalusia; *Víctimas mortales de la guerra civil en Euskadi* (Civil war fatalities in the Basque Country), Basque government; *La tortura y los malos tratos en la Comunidad Foral de Navarra entre 1960–1978* (Torture and ill-treatment in the Autonomous Community of Navarre from 1960 to 1978), government of the Autonomous Community of Navarre.

Child abduction

122. The information service to support persons affected by the possible abduction of newborns has been operational since 2013 and is the subject of an interministerial and institutional cooperation agreement.

123. The purpose of the service is to provide the affected individuals with the documents on the relevant birth or delivery that are held by the Government and may have been produced by, among others, civil registries, cemeteries, hospitals, archbishoprics, provincial councils

and city councils. The service also seeks to provide the individuals concerned with factual elements, even if circumstantial in nature, so that they can bring any appropriate civil or criminal proceedings and thus determine their natural filiation.

124. A bank of genetic profiles has been created at the National Institute of Toxicology and Forensic Sciences using the genetic reports provided by the individuals concerned or the electronic files obtained by external laboratories. The purpose of the bank is to bring that genetic information together into a single database so that it can be cross-checked by the affected individuals to determine the existence of genetic matches that may indicate biological family relationships. This service is offered free of charge.

125. In the autonomous communities, the Legislative Assembly of the Autonomous Community of the Canary Islands adopted Act No. 13/2019 of 25 April 2019 on stolen minors in the Autonomous Community, which has the same objective as the national laws in this area. The scope of this Act extends to cases where the removal of the minor took place outside the Autonomous Community, but the minor was then transferred to the territory of the Canary Islands.

Disappearances and democratic memory

126. Act No. 20/2022 provides for the comprehensive reform of the Historical Memory Act (No. 52/2007), establishing the right of victims, their families and the rest of Spanish society to truth and justice with regard to the events of the period of history concerned. It also establishes the responsibility of the Government to lead, plan and execute the exhumation of victims of the dictatorship and the Civil War, in addition to the right of victims' associations, family members and memorialization organizations to participate in such efforts.

127. The Act also establishes a prosecutor for human rights and democratic memory, whose duties include supporting searches for the victims of the events under investigation, with a view to ensuring that they are properly located and identified. Furthermore, it lays down the requirement for the finding of any remains that may be those of persons who disappeared during the Civil War and the dictatorship to be communicated to the relevant administrative authority, the State security forces, the public prosecutor's office or the courts.

128. State policy on democratic memory is led by the State Secretariat on Democratic Memory, which reports to the Ministry for Territorial Policy and seeks to promote and spearhead public policies on the conservation, defence, promotion and dissemination of democratic memory and to run relevant cooperation programmes with the autonomous communities, local authorities and other organizations.

129. The Directorate General on Victim Support and the Promotion of Democratic Memory reports directly to the State Secretariat on Democratic Memory. The former is composed of one division responsible for supporting victims of the Civil War and the dictatorship and another division in charge of administrative coordination and institutional relations. In addition, in 2024, it will be strengthened through the establishment of a new division for the promotion of democratic memory. The missions of this new division include the following:

(a) The design, implementation and monitoring of a State plan on democratic memory, in addition to the preparation of the necessary reports;

(b) The creation of a national public census of victims of the Civil War and the dictatorship and a census of the buildings erected and work done by members of the disciplinary battalions of soldier workers, as well as by prisoners in concentration camps, workers' battalions and prisoners in military prisons;

(c) The development of initiatives for the recognition and institutional reparation of the victims of the Civil War and dictatorship;

(d) The creation, management and updating of a comprehensive map of mass graves;

(e) The formulation of a plan on the search for persons who disappeared during the Civil War or the subsequent period of political repression and whose whereabouts are

unknown, in addition to the launch of a programme for the exhumation of the victims of Franco's regime who remain buried in mass graves;

(f) The facilitation, in cooperation with the Directorate General of Legal Certainty and Public Confidence, of the review of civil registry records of deceased persons and the registration of disappeared victims in the civil registry section on deaths.

130. In order to carry out its duties, the Directorate General on Victim Support and the Promotion of Democratic Memory has been assigned 15 members of staff. In the general State budget for 2023, a total of €14 million was earmarked for the programmes of the State Secretariat on Democratic Memory, with 60 per cent of those funds being allocated for the search, exhumation and identification of persons who disappeared as a result of the Civil War and Franco's dictatorship.

131. A four-year plan on the search, localization and identification of persons who disappeared during the Civil War and the dictatorship was published in 2020 to cover the period from 2021 to 2024. A report on the progress made in that area and future recommendations has been commissioned as part of that plan. An annual budget of €4 million has been earmarked for this State plan, facilitating the launch, in the last three years, of almost 400 projects and the localization and exhumation of more than 1,000 individuals. All autonomous communities and local authorities are involved in the implementation of this plan (see annexes II and III). An emergency plan for 2020–2021 was developed and introduced in 2020.

132. Act No. 52/2007 of 26 December 2007, which recognizes and expands rights and provides for measures to be taken on behalf of persons who were subjected to persecution or violence during the Civil War and the dictatorship, introduced a series of measures aimed at facilitating access to the relevant archives. A significant development was the establishment, under the Ministry of Culture, of the Historical Memory Documentary Centre, which continued the work to recover a significant number of collections of archives and documents in Spain and other countries where groups of exiles or Spanish personalities were known to have been present. In addition, 2007 saw the launch of an ambitious policy aimed at providing the public with online access to those documents by creating a portal of victims of the Civil War and of reprisals under Franco's regime and other databases.

133. Other developments include the adoption, on 20 September 2018, 30 January 2019 and 22 July 2020, of ministerial resolutions concerning the military archives, which establish that the Official Secrets Act (No. 9/1968 of 5 April 1968) has no retroactive effect, thereby granting the public access to a large number of collections relating to the Civil War and the dictatorship, including those marked as restricted or confidential. Online databases have been made available to the public. One such database contains the case files of the war courts and the military tribunals, which were compiled by the First Territorial Military Tribunal between 1936 and 1970 in 12 Spanish provinces, including Madrid and the main cities on the east coast.

G. Treatment of persons deprived of their liberty (arts. 7, 9, 10 and 14)

1. Statistical data

134. The following statistics are available regarding the number of persons in pretrial detention, the ratio of persons in pretrial detention compared to the number of persons deprived of their liberty and the average duration of pretrial detention:

- Total prison population in Spain: 56,485
- Pretrial prison population: 9,808
- Average number of days since admission: 278 (central Government)

2. Measures taken to review the use of mechanical restraint and solitary confinement

135. The use of mechanical restraint is provided for in penitentiary legislation as an exceptional measure that can be applied only in the cases and with the guarantees expressly set forth in Organic Act No. 1/1979 of 26 September 1979, the General Penitentiary Law.

136. Within this regulatory framework and with the aim of providing clear guidelines for measures to homogenize the activity of prison staff in this area, a protocol was established for the application of mechanical restraint in accordance with international standards and the recommendations of the national mechanism for the prevention of torture through Instruction No. 3/2018. Under Service Order No. 2/2020 of 20 May, the use of mechanical restraint was reviewed and Service Order No. 6/2016, which provided for the use of mechanical restraint for inter-facility transfers of particularly dangerous inmates, was rendered ineffective.

137. The General Penitentiary Law provides for punishment by solitary confinement only in the case of serious infractions and for a maximum of 14 days (art. 42 (2)). However, when there are several penalties that carry this sanction, it is possible that, subject to the authorization of the Penitentiary Surveillance Court, the successive fulfilment of these penalties may last for a maximum of 42 days. In these cases, and in order to avoid the harmful effects that prolonged isolation can have, in accordance with international recommendations and standards, the prison administration has instructed all prisons that, whenever the prisoner so requests, after 14 days, the consecutive serving of the sanctions should be interrupted and the prisoner should be allowed to return to ordinary living arrangements, so that he or she can have meaningful contact for a short time (from one to three days) and then resume solitary confinement.

138. Article 21 ter of Organic Act No. 8/2021 establishes measures to guarantee harmonious coexistence and safety in child and adolescent protection centres, which include preventive and de-escalation measures, and the possibility of using, in exceptional cases and as a last resort, measures involving the physical restraint of the minor, with a prohibition on mechanical restraint.

139. In addition, amendments have been made to articles 27 to 30 of Organic Act No. 1/1996 of 15 January 1996, on the legal protection of minors, partially amending the Civil Code and the Civil Procedure Act, relating to security measures, containment, isolation of minors and personal and material searches in protection centres.

140. Organic Act No. 8/2021 also amends article 59 of Organic Act No. 5/2000 of 12 January 2000, regulating the criminal responsibility of minors, which establishes that the restraint of the wrists of the person serving a detention measure with approved equipment is admissible, on an exceptional basis, only on the condition that it is carried out under a strict protocol and it is not possible to apply less harmful measures; mechanical restraint is prohibited.

3. Measures to improve conditions of detention

141. The 2015 amendment of the Criminal Procedure Act, to transpose, among other norms, European Union Directive 2012/13/EU on the right to information in criminal proceedings, adapting and strengthening, among other provisions, those related to the rights of detainees (Criminal Procedure Act, arts. 520, 527 and 509) and subsequent rulings of the Constitutional Court (STC 21/2018, 83/219) have contributed to shaping, improving and updating police actions related to the conditions of detention. These conditions are set out both in State Secretariat for Security Instruction No. 1/2024, by which the comprehensive police detention procedure was established, and in the Standards for Criminal Investigation Police Proceedings, approved in 2019 by the National Criminal Investigation Police Coordinating Commission.

142. The measures introduced to improve detention conditions for persons being held in custody include the provision of healthcare and the prevention of overcrowding. They are set out in State Secretariat for Security Instruction 1/2024, by which the comprehensive police detention procedure was also established. The occupancy standard is generally one prisoner per cell. When the number of detainees exceeds the number of cells, occupancy is adjusted to the capacity established for each cell.

143. With regard to medical assistance, in cases requiring assistance, staff in facilities where people are being held in custody will carry out the established instructions to ensure that the detainee receives a medical examination as quickly as possible. Medicines are dispensed by prescription only. Between 2015 and 2019, measures aimed at monitoring drug addiction and drug overdose deaths were improved; specialized consultations were made possible using telemedicine systems; the digitalization of medical records was completed; and the most prevalent diseases were continuously monitored. All patients with hepatitis C were treated as soon as they were diagnosed. The 90-90-90 targets of the Joint United Nations Programme on HIV/AIDS set for 2020 have been achieved.

144. In 2019, an action and infrastructure plan for migrant holding centres was approved. It provides for:

(a) The completion of works for the improvement, reform, expansion and restoration of the infrastructure, facilities and equipment of migrant holding centres;

(b) The construction of new facilities for the migrant holding centres in Algeciras (Cádiz).

145. Through the investments outlined in the aforementioned action plan, to be undertaken over an estimated period of three years, 616 new places will be created, both through the creation of new migrant holding centres and through the adaptation and remodelling of the existing ones.

146. Owing to the migratory situation, which directly affects the southern arc of the Iberian Peninsula, temporary stay centres for immigrants have been set up in Motril, Almería, Málaga and Cádiz to provide an adequate response to primary social care needs and to be able to carry out the relevant identification procedures. The centres in Málaga and Cádiz have been built and the centres in Motril and Almería are being remodelled.

147. As has been indicated on previous occasions, the Spanish prison system is not experiencing problems with overcrowding. Over the past 13 years, the prison population has decreased significantly, by 25.7 per cent, from 76,079 prisoners in December 2009 to 56,485 in August 2023. Currently, the occupancy rate is 72 allocated places per every 100 available.

4. Incommunicado detention

148. The statutory provisions on incommunicado detention, as modified under Organic Act No. 13/2015 of 5 October 2015 amending the Criminal Procedure Act with a view to reinforcing procedural safeguards and regulating technological investigative methods, do not serve to make such detention standard practice, but rather to ensure that it is regulated and limited with respect to discretion. Incommunicado detention therefore cannot be imposed de facto or as an exception owing to the seriousness of the acts under investigation. An investigating judge or court may, on an exceptional basis and by means of a reasoned decision, allow incommunicado detention if there is "an urgent need" (Criminal Procedure Act, art. 509). The order allowing or, where applicable, extending the period of incommunicado detention must set out the grounds on which the measure was taken.

149. In addition, amendments to article 527 of the Criminal Procedure Act have made the restrictions optional, with the investigating judge being able to adjust a detainee's exercise of certain rights in accordance with the circumstances of his or her case. The determination as to whether incommunicado detention is an appropriate measure for achieving the intended objective set out in the Criminal Procedure Act and whether the adoption of such a measure is essential is made by a judicial authority, thereby providing additional safeguards for and oversight of the criminal proceedings and, consequently, the rights of the detainee.

150. In addition, the 2015 amendments made the restriction of each right optional ("may"), with the investigating judge being able to adjust a detainee's exercise of certain rights in accordance with the circumstances of his or her case.

Minors between the ages of 16 and 18

151. The amendments to article 509 (4) of the Criminal Procedure Act expressly state that minors under 16 must not be placed in incommunicado detention. The imposition of any

measure available only in exceptional cases requires the presence of specific circumstances that reveal a danger and/or a level of seriousness that would warrant the temporary placement, by judicial decision, in incommunicado detention of a person arrested by the State security forces.

152. State Secretariat for Security Instruction No. 1/2024, adopting the comprehensive police detention procedure, calls for notice to and review by the Public Prosecution Service prior to the placement of a minor over 16 in incommunicado detention and provides that minors must be held in appropriate facilities that are separate from those holding the other detainees.

153. Article 520 of the Criminal Procedure Act sets out the rights of arrested persons and prisoners, including those who are minors. Minors who are arrested must be taken before the juvenile justice division of a public prosecutor's office, and the persons who exercise parental authority over them or are their legal or de facto guardians must be notified of the fact that they are in custody and of where they are being held as soon as it is shown that they are minors. If there is a conflict of interest with the legal or de facto guardian, a guardian will be appointed by the court and notified of the arrest and place of detention. If the arrested minor is a foreign national, the consul of his or her country will automatically be notified of the arrest.

H. Trafficking in persons (art. 8)

Prevention and eradication of trafficking in persons

154. With respect to the scale of trafficking in persons, Spain continues to be primarily a country of transit and of destination. The country's strategic location in Europe makes it a gateway to two continents, America and Africa, and it remains an attractive destination for nationals of Asian countries seeking to later reach the United Kingdom, the United States of America or Canada. One of the most noticeable trends in recent years has been the shift towards Latin American countries in terms of the nationality of trafficking victims, with nationals of those countries coming to account for 75 per cent of all victims, especially of trafficking for purposes of sexual exploitation. Trafficking in persons is a criminal offence under article 177 bis of the Criminal Code.

155. According to data from the Centre for Intelligence on Terrorism and Organized Crime, between 2017 and 2022, 564 reports of trafficking in persons and 1,003 reports of sexual or labour exploitation were investigated, with close to 4,000 people being arrested and 450 criminal organizations and groups being dismantled. The State security forces reported that 1,667 persons, including 79 minors, had been formally identified as victims of trafficking in persons.

156. Significant developments have taken place in Spain in recent years with respect to trafficking in persons. The Group of Experts on Action against Trafficking in Human Beings of the Council of Europe has recognized these developments (report on Spain issued in 2018 following the second evaluation round and adopted in June 2023 at the thirty-second meeting of the Committee of the Parties).

Police and judicial action

157. One of the specific duties of the Centre for Intelligence on Terrorism and Organized Crime is the management of information from the State security forces regarding the different types of trafficking in persons (trafficking for purposes of sexual or labour exploitation, forced marriage, begging or criminal activity) for a twofold purpose: prevention and punishment. In this regard, the Centre has focused its efforts on creating a data-collection system (the Trafficking in Persons Database) in order to be able to make use of the information available on trafficking, beginning with trafficking for purposes of sexual exploitation.

158. The Civil Guard has stepped up its prevention campaigns, prepared protocols on working jointly with the Labour Inspectorate and social entities and continued to collaborate and cooperate with authorities in victims' countries of origin on aspects relating to

prevention, operations, the justice system and assistance. The scope of the police work done by the Civil Guard is laid out in, for example, State Secretariat for Security Instruction No. 6/2016 on the work of the State security forces in the combat against trafficking in persons and in collaboration with organizations and entities with proven experience in assisting victims. Since 2021, the Civil Guard has, under the framework of the European Multidisciplinary Platform against Criminal Threats of the European Union Agency for Law Enforcement Cooperation, been heading an operation to raise awareness of trafficking and labour exploitation, in collaboration with non-governmental organizations.

Instruments and tools

159. The Comprehensive Plan to Combat Trafficking in Women and Girls for the Purpose of Sexual Exploitation 2015–2018 was adopted in 2015. The combat against trafficking in persons is one of the priorities under the National Strategy against Organized Crime and Serious Crime 2019–2023, adopted in 2019.

160. In addition, the National Strategic Plan against Trafficking and Exploitation of Human Beings 2021–2023, adopted in 2022, sets various priorities for the fight against trafficking and exploitation of human beings, including the detection and prevention of trafficking in persons, the identification, referral, protection and recovery of victims and the provision of assistance to them, the prosecution of the offence, and cooperation and coordination.

161. Also noteworthy is the Operational Plan for the Protection of the Human Rights of Women and Girls Who Are Victims of Trafficking and Sexual Exploitation and of Women in Contexts of Prostitution (known as “Plan Camino 2022–2026”).

162. There has also been an increased presence on social networks such as Facebook, Twitter and YouTube, where up-to-date information is distributed to members of the public, who can use the channels to share advice on preventing trafficking in persons and to raise awareness of the suffering of victims. In addition, there are dedicated web pages and 24-hour hotlines for contacting the State security forces.

163. The position of National Rapporteur was created in 2014, in compliance with article 29 (4) of the Council of Europe Convention on Action against Trafficking in Human Beings and article 19 of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims. The primary mission of the Centre for Intelligence on Terrorism and Organized Crime is to provide the National Rapporteur with advice, technical support, statistics and information on trends in trafficking in persons.

164. Likewise, in line with State Secretariat for Security Instruction No. 6/2016, mentioned above, the National Police and the Civil Guard introduced the role of social liaison officer on trafficking in persons to contribute to the prevention of and combat against such trafficking and to foster coordination between the State security forces and the social agencies and entities involved in the protection of victims.

165. With the participation of specialized civil society organizations and entities, the Office of the National Rapporteur on Trafficking in Persons has twice, in 2018 and in 2021, evaluated whether State Secretariat for Security Instruction No. 6/2016 was being implemented and functioning properly.

166. A series of legislative changes have taken place, including, notably, under Organic Act No. 8/2021 of June 4 2021 on the comprehensive protection of children and adolescents against violence, which amends the provisions on trafficking in persons contained in article 177 bis of the Criminal Code. Pursuant to the amendment, whenever the trafficking victim is a minor, the sentence imposed will include a disqualification from practising any profession or trade, whether or not it is remunerated, involving regular, direct contact with minors for a period of 6 to 20 years beyond the term of imprisonment imposed. In addition, trafficking in women and children for purposes of sexual exploitation is included within the scope of Organic Act No. 10/2022 on the comprehensive protection of sexual freedom.

167. Also noteworthy is the proposal developed by the Special Government Office on Gender-based Violence to harmonize the criteria for certifying that a woman was at risk of trafficking, sexual exploitation or other situations of vulnerability in contexts of prostitution

and therefore eligible for the financial and housing support provided for under the emergency plan for countering gender-based violence during the COVID-19 pandemic.

168. The first plan of action against the sexual exploitation of children and adolescents in the child protection system was adopted at a meeting of the Sectoral Conferences on Equality and on Children and Adolescents in May 2022. One of its aims is to increase training for professionals working in protection centres so as to support the detection of and provision of care and assistance to minors who are victims of sexual exploitation and trafficking.

169. The existing tools and protocols include:

- A protocol for the detection of and response to potential cases of trafficking in persons for purposes of sexual exploitation that has been in force since January 2015 and establishes guidelines for responding to potential cases that may come to light in migration centres under the State Secretariat for Migration and in centres and facilities managed by social entities implementing projects that are funded by the State Secretariat for Migration and serve immigrants and persons who are applying for or have been granted temporary or international protection
- A referral procedure for potential victims of trafficking in persons requesting international protection at Madrid-Barajas Airport, in use since 15 October 2019
- A protocol for prevention, detection, assistance and referral with respect to potential victims of trafficking in persons at centres for reception, assistance and referral, which has been applied since April 2022, when the emergency arising from the arrival of Ukrainians displaced by the armed conflict began
- A new procedure that has been designed to facilitate and expedite the granting of temporary protection, as well as residence permits and the freedom of movement and of work
- A procedure on which work was done in 2023 for processing applications for international protection submitted by unaccompanied and separated children

170. Article 2 of Act No. 43/2006 of 29 December 2006 on the promotion of growth and employment provides for two incentives to support integration into the regular workforce through financial benefits for the hiring of persons who have been victims of trafficking in persons.

171. Progress has been made in improving assistance to victims of trafficking through measures such as:

- The inclusion of victims of trafficking and exploitation among the recipients of the minimum living income provided for under Royal Decree-Law No. 20/2020 of 29 May 2020
- Administrative certification of a person’s status as a victim of trafficking for purposes of sexual exploitation
- Various calls for applications for funding from the Special Government Office on Gender-based Violence for projects intended to assist victims of trafficking for purposes of sexual exploitation
- Following the invasion of Ukraine by Russia, the bolstering of the 016 telephone hotline through an emergency contract for increased interpretation into Ukrainian, with female interpreters in the room, and for the provision of assistance to women victims of trafficking and/or sexual exploitation
- The first social and employment integration plan for victims of trafficking and sexual exploitation and women and girls in contexts of prostitution, which seeks to advance their right to reparation, provide more integrated psychosocial care and healthcare and promote employment alternatives that guarantee victims’ economic rights and their access, without discrimination, to adequate, accessible housing

172. Situations of trafficking in persons in the workplace may be detected by the Labour and Social Security Inspectorate. However, special units of the State security forces are responsible for identifying potential victims.

173. Since its establishment in 2014, the Labour and Social Security Inspectorate has been taking part in meetings of and calls issued by the National Rapporteur on Trafficking in Persons. Training activities on trafficking in persons in the workplace have been held for Inspectorate staff so as to bolster their training in detection and investigation.

174. Following the completion of the Master Plan for Decent Work 2018–2020, the Strategic Plan of the Labour and Social Security Inspectorate 2021–2023 was adopted in December 2021. Its priorities include the fight against trafficking in persons in the workplace, forced labour and labour exploitation. With a view to increasing protection for persons subjected to forced or compulsory labour, the National Plan of Action against Forced Labour: Compulsory Employment Relationships and Other Forced Activities was prepared and adopted in 2021 for a three-year period. It provides for the creation of an interministerial working group to monitor the degree of compliance with it.

175. A quantitative study on trafficking, sexual exploitation and prostitution among women and girls in Spain is currently being conducted.

I. Treatment of foreign nationals, including refugees and asylum-seekers (arts. 7, 9, 10, 12–14 and 24)

1. Deprivation of liberty

Measures involving national legislative powers

176. One of the overarching goals of the previously mentioned second National Human Rights Plan is the protection of the rights of migrants, refugees, asylum-seekers and recipients of humanitarian assistance. In addition, minors who are foreign nationals and are found and identified in Spain are never deprived of their liberty for the mere fact of being in an irregular situation, as the residence of minors who are wards of the State or have been recognized as wards by judicial decision is considered, for all intents and purposes, legal (Organic Act No. 4/2000 of 11 January 2000 on the rights and freedoms of foreign nationals in Spain and their social integration, art. 35 (7)).

177. The General Commissariat for Immigration and Borders coordinates the work done by police with foreign minors after their arrival in the country. That work encompasses the protection of both unaccompanied foreign minors and accompanied minors at risk.

Asylum applications

178. Under article 21 of Act No. 12/2009 of 30 October 2009 regulating the right to asylum and subsidiary protection, a person who has been denied entry into Spain may request international protection. The Ministry of the Interior must decide on the admissibility of an application for international protection, and the applicant's consequent entry into the country, within four days of its submission. During that period, which may be extended by another four days if the application is denied and the applicant decides to challenge the decision through a request for reconsideration, the person will remain in premises designated for that purpose (Act No. 12/2009, art. 22). The country's main airports have facilities where applicants for international protection stay while their applications are being considered. These facilities are not considered prisons, since the foreign nationals are deprived only of their freedom of movement. They receive social assistance through the Spanish Red Cross and the facilities where they are housed while their applications are being processed are owned by the airport management company, the Spanish Airports Authority, which also has a medical service.

179. Applicants are interviewed in the order of arrival, with priority given to those who have serious medical problems or are especially vulnerable. The Office for Asylum and Refugees is responsible for deciding which steps to take during these types of procedures and for reaching decisions on the applications.

180. The capacity of the accommodation rooms at the border post was exceeded owing to the increase in the number of persons seeking international protection at the border between November 2023 and January 2024. However, their bodily and psychological integrity was

ensured at all times by the Office for Asylum and Refugees in Spain, the Ombudsman, the Office of the United Nations High Commissioner for Refugees (UNHCR) in Spain, public prosecutors' offices, the courts and others. The Directorate General for International Protection has carried out and coordinated efforts to upgrade and refurbish the facilities. As applicants leave the facilities once their applications for international protection have been accepted for processing, moving towards a timely decision on their case, there are no applicants for international protection waiting in airports for a decision to be taken on an accepted application.

181. Article 38 of Act No. 12/2009 of 30 October 2009 regulating the right to asylum and subsidiary protection addresses cases that emerge outside the country and provides that Spanish ambassadors may call for an asylum-seeker to be taken to Spain so that he or she may submit an application in accordance with the procedures set out in the Act, as long as the asylum-seeker is not a national of the country where the diplomatic mission is located and there is a risk to his or her bodily integrity.

182. Generally speaking, the National Police, which is responsible for interviewing applicants, and the Subdirectorate General for International Protection work with each other and coordinate their activities. An attempt is made to give priority to applicants in situations of vulnerability.

183. That same approach is taken with respect to foreign nationals who submit applications at migrant holding centres, who are thought to be in a potentially vulnerable situation. In Melilla, applicants are accommodated at the temporary migrant reception centre, where they are not deprived of their freedom of movement.

2. International protection

The autonomous cities of Ceuta and Melilla

184. Any foreign citizen in the autonomous cities of Ceuta and Melilla may apply for international protection at the appropriate office of the Provincial Immigration and Border Force by making an appointment in advance. Once the competent authority has conducted an interview, the application will be processed in accordance with the ordinary or, where appropriate, emergency procedure.

185. A negative decision on an application for international protection may be challenged through administrative channels by means of a discretionary appeal for reconsideration and as an administrative dispute before the National High Court (as is the case with applications submitted in the other provinces).

186. In Ceuta and Melilla, requests for international protection may also be submitted at designated border posts at El Tarajal and Beni Enzar by foreign nationals who, after being denied entry into Spain for not meeting the requirements set out under the immigration laws, express their desire to apply for international protection. Such requests are processed in accordance with the border procedure laid out in article 21 of Act No. 12/2009. The applicant will be given an appointment for an interview and for the submission of his or her application and will then be transferred to the temporary migrant reception centre.

187. The border procedure will not apply in cases where more than 10 days elapse between the asylum-seeker's entry into Spain and the submission of his or her application. Such requests will be handled under the ordinary procedure, regardless of the fact that the desire to apply for international protection was expressed at a border post.

188. Applications for international protection submitted via the designated posts are examined individually, in accordance with international human rights law. A series of measures to reinforce and overhaul the human and material resources of the Subdirectorate General for International Protection/Office for Asylum and Refugees have been rolled out since June 2018. The measures have made possible a gradual increase in the capacity of the Subdirectorate/Office to reach decisions on cases, thereby reducing the number of pending applications relating to either international protection or statelessness.

189. The roll-out of a new computer application known as "LARES" is planned in order to ensure greater flexibility, efficiency and interoperability in management at the Subdirectorate

General for International Protection/Office for Asylum and Refugees. In addition, in August 2020, a new notification system was introduced for decisions, using the "Notific@" electronic platform and the printing and mailing centre of the country's tax agency.

Procedures for expulsion, return and refusal of entry

190. The procedures are carried out with full respect for the safeguards provided for under the legal system, including the treaties that Spain has ratified, and in accordance with Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals and the Organic Act on the rights and freedoms of foreign nationals in Spain, which sets out applicable judicial safeguards, such as the rights to free legal aid, interpretation and effective judicial protection and the right of appeal against administrative decisions.

191. Article 22 of the Act addresses the applicable judicial guarantees, such as the right to free legal aid in administrative proceedings that may lead to refusal of entry, return or expulsion from Spain and in all proceedings relating to international protection and the right to the assistance of an interpreter. Such assistance is provided free of charge to persons lacking sufficient financial resources.

Training and preparedness with respect to human rights and the use of force

192. In addition to the basic police training on how to prevent and prepare for potential psychosocial risks, there are specific training courses on repatriation operations that contain an exclusive module with practical, up-to-date content that is adapted to the duties of the police (for example, on how to deal with stress and the sources of conflict). Officials with the National Police also take part in the course for forced return escort leaders in joint return operations that is organized by the European Border and Coast Guard Agency (Frontex).

193. The Civil Guard system for operational interventions governs the annual plans on techniques for operational interventions. It seeks to make available to all members an appropriate tool for safely and effectively dealing with the situations of risk that they may encounter while carrying out their work. All personnel are trained in the rational use of firearms, the proportional use of means of deterrence issued to them in their work and the treatment of detainees in any situation. Instructions and protocols on the use of firearms and the prevention of potential bad practices are distributed widely.

194. Training on hate crimes is provided in connection with entry into the various rank categories. In addition, completion of more specialized and increasingly broader courses on human rights and professional ethics and on racism, xenophobia and hate crimes is required for entry into certain services and commissions.

Progress and results of the investigation into the events of 2014 in Ceuta

195. In an order of 27 July 2020, the Sixth Chamber of the Provincial Court of Cádiz, located in Ceuta, dismissed the appeals filed by various associations against the order issued by Court of Investigation No. 6 of Ceuta on 29 October 2019, upholding the decision to end the investigation and vacating the 24 September 2019 order of the same court, in which the offences of negligent homicide, battery and denial of assistance were used to characterize the facts of the case.

196. The following observations can be made about the decision:

- The court saw no "causal relationship" between the officers' actions and "the deaths due to drowning and injuries that they were alleged to have caused", and found that, beyond some "hint of abnormality", there was no "indication of deviation or excess" in their conduct.
- In all the cases examined, the court rejected the claims of grievous bodily harm and denial of assistance because of a lack of evidence.
- According to the court, "there can be no doubt that the immigrants who decided to act in such a risky manner were aware that, as regularly occurred in other storming

attempts, Spanish law enforcement authorities would, in order to uphold the law, do what was necessary to prevent it, and they assumed the risks involved".

- The court stated that "there is no circumstantial evidence that refutes the assertion that the police acted in accordance with the basic principles required for such interventions, and that the crowd control methods used were appropriate and proportional given the circumstances of the case and were intended first to achieve an objective of deterrence and then one of channelling".
- Lastly, the order notes that "the Civil Guard officers who were on the breakwater or on the beach had no obligation to rescue the swimmers, not only because it has not been shown, or even alleged, that they made any such request, but also because there is no evidence that anyone was drowning or in danger in their presence on the Spanish side".

3. Unaccompanied foreign minors

197. The age-determination procedure is currently configured in accordance with the legislation relating to foreign nationals and the framework protocol for working with unaccompanied foreign minors of 2014, the adoption of which was promoted by the State Secretariat for Migration, as provided for in article 190 of the Regulations Relating to Aliens.

198. The standards applicable to the State security forces in this regard are strictly established in the legislation in force. In this connection, persons whose status as a minor cannot be determined with certainty are provided with the immediate support that they need by the services responsible for the protection of minors, and the situation is reported to the Public Prosecution Service, which will arrange for their age to be determined and order the necessary medical tests in order to collaborate with health institutions as a matter of priority.

199. The prior express consent of such persons is required and they must be informed about the test, the methods and techniques to be used, and the consequences of refusing to give consent. In giving consent, they have the right to be heard if they have sufficient capacity for discernment. Medical professionals decide which tests are most appropriate and sufficiently reliable to eliminate uncertainty in determining a person's age. The tests must be carried out by qualified healthcare staff with absolute respect for the person's dignity.

200. After the tests have been conducted, medical staff will assign an age range to the person concerned, on the basis of which the prosecution service must issue a decision set out in a decree. In case of doubt, it opts for the lower age, for the benefit of the person concerned. The decree is of a provisional nature and may be amended at a later date if unforeseen circumstances arise.

201. With regard to specific guarantees applied to the processing of applications for international protection by unaccompanied minors, petitions submitted by such minors are always admitted to ensure that they pass to the investigation stage and that there is sufficient time for the minors to receive the treatment and support that they need to develop and formulate the grounds for their application.

202. An age-based approach to the assessment of applications must be taken so that consideration may be given to the specific needs of minors; the authorization of their legal representatives is obtained and channels of communication are established with agencies that support minors so that the pace of investigations may be adapted to applicants' situations. Account must be taken of specific acts of persecution facing children (forced recruitment, child marriage, female genital mutilation and trafficking in persons, among others). It is also necessary to assess the specific risks that minors would face if they returned to their country of origin in order to evaluate the future risks that determine whether international protection should be granted.

203. With regard to the age-determination procedure, a more rights-based framework for action is required, taking into account the legal provisions that govern this framework, respecting the standardized criteria and ensuring the holistic evaluation of case files and individualized assessments. In this regard, it is essential to ensure the involvement of the State security forces and to consider the views of the public prosecutor's office.

204. In 2022, the Sectoral Conference on Childhood and Adolescence adopted the migration contingency management model for unaccompanied children and adolescents as a model for dealing with emergency situations in migration-related crises. The model is based on shared responsibility, cooperation and solidarity between regional administrations, which allows unaccompanied migrant minors to be referred between different autonomous communities.

205. The purpose of the Humanitarian Support Programme managed by the Directorate General for Humanitarian Support and the Social Inclusion of Immigrants, within the State Secretariat for Migration, is to meet the basic needs of immigrants in a situation of vulnerability owing to poor physical health and lack of social, family and financial support who arrive on Spanish coasts or enter the country overland through the cities of Ceuta and Melilla. This programme, which is allocated its own resources through the general State budget, includes a reception service that makes efforts to restore contact between children and their families and social circle.

J. Freedoms of expression, peaceful assembly and association (arts. 19, 21 and 22)

1. Maintenance of public order: freedoms of expression, peaceful assembly and association

206. The criminal laws in force in this area are considered to be in compliance with the Covenant. Consequently, no plans are in place to enact legislative amendments in this regard. Organic Act No. 4/2015 of 30 March 2015, the Public Safety Act, defines as minor offences the failure to show respect and consideration for members of the State security forces in the performance of their duties when such conduct does not constitute a criminal offence. Furthermore, operational instructions, such as No. 13/2018 on the interpretation of certain violations of the Public Safety Act, regulate offences relating to the respect and consideration due to members of the State security forces, disobedience and resistance, and the unauthorized use of images. These instructions were adopted in compliance with the case law of the Constitutional Court, which determines that administrative offences may not be interpreted in a manner prejudicial to fundamental rights, especially the rights to peaceful assembly and expression.

2. Offences of slander and libel and access to public information

207. Application by the courts of articles 205–216 of the Criminal Code and articles 496, 504, 524, 525 and 543 of the Criminal Code (see table in annex I).

208. With regard to the regulatory framework governing access to public information, the relevant obligations are set out in Act No. 19/2013 of 9 December on transparency, access to public information and good governance, and are applicable to all public administrations. Political parties, trade union organizations, business organizations and private entities that receive, for a period of one year, public aid or subsidies that exceed certain financial thresholds are also subject to a reporting obligation (art. 3).

209. Reporting obligations involve the regular publication of relevant and up-to-date information to ensure the transparency of the functioning and oversight of public institutions. Information subject to transparency obligations must be published on the corresponding official websites or web pages in a clear, structured and comprehensible manner for interested parties, preferably in reusable formats, in accordance with the principle of universal accessibility and design for all.[1] At the central Government level, a transparency website facilitates citizens' access to all the information described below.[2] The General Council of the Judiciary, the Congress and the Senate also have their respective transparency websites.

210. Title I of Act No. 19/2013 establishes the right of all citizens to access public information, in line with article 105 (b) of the Constitution, which provides that citizens'

[1] Act No. 19/2013, art. 5.

[2] Act No. 19/2013, art. 10.

access to administrative files and records is governed by law, except in matters affecting the security and defence of the State, the investigation of offences or the privacy of individuals. Under Act No. 19/2013, public information is understood to refer to contents or documents, in any format, held by any of the persons subject to the Act that have been prepared or acquired in the performance of their duties (art. 13).

211. In order to give effect to the right of access, the Act provides for an administrative procedure (arts. 17–22) based on the channels provided for in Act No. 39/2015 of 1 October on the common administrative procedures of the public administrative authorities, taking into account the specific aspects of the subject area concerned. Decisions issued in connection with access to public information are subject to direct appeals before the administrative courts, without prejudice to the possibility of filing a prior discretionary appeal with the Council for Transparency and Good Governance (arts. 23 and 24). These decisions are published by electronic means under the terms established in the regulations, after personal data have been rendered anonymous and the interested parties have been notified.

3. Advocating constitutional changes and reforms

212. In a constitutional State governed by the rule of law, such as Spain, persons may face criminal charges, be deprived of their liberty or have their rights restricted only if an act defined by a criminal law is committed following a decision issued by a judicial authority in compliance with due process and subject to appeal before higher national courts and, where appropriate, before the European Court of Human Rights. Spain reviews the judgments of the European Court of Human Rights and advocates any constitutional change using the legal and democratic methods protected by the Constitution itself. The Constitution does not contain any entrenched clauses, which means that any constitutional provision may be amended, including through a total revision of the Constitution.

213. Two different procedures are in place, depending on the constitutional provisions to be amended: provisions setting out the basic general principles defining the form of the State and Government, as well as the structuring principles (Constitution, preliminary title, arts. 1–9) and provisions relating to fundamental rights (Constitution, arts. 15–29) and the Head of State (Constitution, title II, arts. 59–65), may be amended only by means of a special procedure (Constitution, art. 168) that requires support from the parliament and Spanish citizens that is broader than that required for other constitutional provisions (Constitution, art. 167).

Catalan case

214. The two political parties that, between May 2021 and October 2022, formed the autonomous government of Catalonia – Esquerra Republicana de Catalunya (Republican Left of Catalonia)[3] and Junts Per Catalunya (Together for Catalonia), together with Candidatura de Unidad Popular (Popular Unity Candidacy), which supported them – are ideologically committed to making the Autonomous Community of Catalonia independent from the rest of Spain, although this aspiration is contrary to article 2 of the Constitution. These three political parties, which are represented in the Spanish parliament, are legally constituted and registered, as Organic Act No. 6/2002 of 27 June on political parties does not sanction separatism as a prohibited goal or ideology.

215. The same applies to civil associations, such as Assemblea Nacional Catalana (National Catalan Assembly), whose main objectives include achieving independence for Catalonia but which are legally constituted and registered and carry out their activities on a daily and ongoing basis. Parties and associations have promoted and organized numerous demonstrations in support of independence for Catalonia. The demonstrations held on 10 July 2010, under the slogan “we are a nation: we decide”, and on 11 September 2012, under the slogan “Catalonia: new state of Europe”, are two examples of the many demonstrations in support of independence for Catalonia that can be cited. Mention may also be made of the demonstration held in Madrid on 16 March 2019, which was organized by pro-independence

[3] Between October 2022 and the elections of May 2024, Esquerra Republicana de Catalunya governed alone.

associations under the slogan “self-determination is not a crime” and led by the former President of the government of Catalonia, Quim Torra. None of the persons who led or attended these demonstrations were subjected to any type of harm.

216. However, efforts to achieve the goal of independence have not always been made through attempts to reform the Constitution, in line with established constitutional procedures, but have involved violations of domestic law, disregarding decisions of the Supreme Court and the Constitutional Court and violating the fundamental rights of citizens and their political representatives who opposed the unlawful decisions taken by the parliament of Catalonia, as repeatedly found by the Constitutional Court (judgments No. 46/2018 of 26 April and No. 47/2018 of 26 April) and the European Court of Human Rights (decision in the case of *Forcadell i LLuis et al. v. Spain* (application No. 75147/17) of 11 October 2017 (para. 38).

217. In 2017, the parliament of Catalonia passed several laws with a view to unilaterally separating Catalonia from the Spanish State and a referendum on such separation was called and held on 1 October 2017 without any legal or democratic safeguards being respected. Mention may be made of Act No. 19/2017 on the referendum on self-determination and Act No. 20/2017 on the legal transition and founding of the Republic. Despite the fact that the Constitutional Court had ruled, firstly, that the instruments for implementing these laws should be suspended and, secondly, that the laws were unconstitutional, the parliament and government of Catalonia disregarded these decisions and acted outside the requirements and democratic principles of the rule of law, convening and organizing a referendum on self-determination.

218. The members of the pro-independence parliamentary groups that adopted the aforementioned laws claimed before the European Court of Human Rights that the aforementioned decisions of the Constitutional Court had violated their rights of assembly (European Convention on Human Rights, art. 11) and political participation (Protocol No. 1 to the European Convention on Human Rights, art. 3). However, in the decision in the case of *Forcadell i LLuis et al. v. Spain* (application No. 75147/17) of 11 October 2017, the European Court of Human Rights stated:

- That the conduct of the autonomous parliament entailed “blatant non-compliance with the decisions given by the Constitutional Court” (para. 36).
- That “the interference with the applicants’ right to freedom of assembly may reasonably be deemed, even in the framework of the limited margin of appreciation afforded to States, to have met a ‘pressing social need’” (para. 38).
- That the action of the Constitutional Court was “necessary in a democratic society”, “inter alia in the interests of public safety, for the prevention of disorder and for the protection of the rights and freedoms of others, within the meaning of article 11 § 2 of the Convention” (para. 38).
- That the decision given by the bureau of the parliament had presupposed blatant non-compliance with the decisions of the Constitutional Court, which had been aimed at protecting the constitutional order (para. 45).
- These violations of domestic law and the democratic system transgressed the limits of defensive democracy that the Constitutional Court has recognized, fully constituting conduct defined in the Criminal Code, as the Supreme Court ruled in judgment No. 459/2019 of 14 October.

219. The Constitutional Court ruled to dismiss the applications for *amparo* filed against Supreme Court judgment No. 459/2019 of 14 October, issued in special case No. 20907/2017, in relation to the leaders of the independence process and interlocutory decisions arising from this case. Currently, there are no appeals pending a decision by the Constitutional Court relating to Supreme Court judgment No. 459/2019. Nine applications relating to the above rulings are pending before the European Court of Human Rights. In addition, there are three applications relating to pretrial detention and four relating to the injunctions issued by the Constitutional Court to the parliament of Catalonia.

220. Politicians, journalists and the general public in Catalonia may advocate constitutional change without facing any adverse consequences for any of their rights, but they must do so by following the constitutionally established channels and respecting the fundamental rights of all citizens.

221. On 22 June 2021, the Council of Ministers granted a pardon to the nine persons sentenced to imprisonment in the trial, who are now free.

4. Offences of "glorification" and "humiliation of victims of terrorist offences"

222. Article 578 of the Criminal Code criminalizes the public glorification or defence of terrorism, which, together with the crime of humiliation of the victims of terrorist offences, is punishable by a prison sentence of 1 to 3 years and a fine of 12 to 18 months.

223. As regards the possibility that this offence might conflict with the right to freedom of expression, the criminalization of these acts is not contrary to article 19 of the Covenant, since that article allows for such restrictions on the exercise of freedom of expression as may be established by law and necessary to ensure respect for the rights or reputations of others, or for the protection of national security, public order or public morals; article 578 of the Criminal Code thus seeks to protect interests that legitimately warrant the restrictions set forth.

224. In fact there has been a shift in case law towards an increasingly narrow interpretation of these offences. This is borne out by the figures on final convictions in recent years: while the total number of convictions for the offence of defending terrorism in 2015, 2016 and 2017 was 16, 27 and 23 respectively, that number fell to 3 and 2 in 2022 and 2023 respectively.

225. The European Court of Human Rights, in its judgment of 22 June 2021 in *Erkizia Almandoz v. Spain*, found Spain guilty of violating the right to freedom of expression of the applicant, Tasio Erkizia, a Basque former politician convicted by the domestic courts for glorifying terrorism in a speech made at an event to pay tribute to a former leader of the terrorist organization Euskadi Ta Askatasuna (ETA). In its judgment, the European Court found that, in the specific case, the domestic courts had failed to adequately weigh the conflicting interests. However, the existence of the offence in the Criminal Code is not in question: as long as its application by the criminal courts is in accordance with the doctrine of the European Court of Human Rights, the law does not need to be changed.

226. In this regard, more recently, the Court upheld the findings of the domestic courts in two cases of conviction for offences of glorification of terrorism under article 578, in the Decisions handed down in the cases of *Jorge López v. Spain* (54140/21) and *Rivadulla Duró v. Spain* (27925/21). In the second of those cases, the Court upheld the conviction for glorifying terrorism, among others, against a rapper known as Pablo Hasel, for the content of several messages posted on Twitter, and endorsed the interpretation made by the courts, finding the complaint of infringement of the right to freedom of expression to be "manifestly unfounded".

227. A review of the most recent case law of the Supreme Court shows that that Court's doctrine in interpreting and applying article 578 of the Criminal Code complies with the standards derived from the Covenant and also from the European Convention on Human Rights, which confirms that the national courts are appropriately weighing the conflicting interests that arise in the application of this provision.

228. Indeed, an analysis of the cases resolved by the Supreme Court between 2021 and 2024 shows that in two of them the Court corrected the interpretation made by the National High Court and struck down the sentence imposed by that Court; the only three cases in which the sentence was upheld (STS 10/12/2021, STS 17/02/2021, STS 24/01/2024) related to jihadist terrorism.

229. Mention should also be made of an important Constitutional Court ruling, No. 35/2020, handed down in the case of the singer known as "César Strawberry", in which the Court granted *amparo* to the appellant, who had been convicted of glorification of terrorism for the contents of several tweets he had posted.

230. Thus current criminal law is in line with the Covenant and there are no legislative proposals to amend article 575.2 of the Criminal Code.

K. Combating corruption (arts. 2, 14 and 25)

231. The Office of the Special Prosecutor against Corruption and Organized Crime investigates and tries particularly important cases relating to financial offences, corruption and organized crime. In addition, the Public Prosecution Service has units of prosecutors specializing in financial offences in several local prosecutors' offices, especially in cities with greater numbers of criminal proceedings. The Special Prosecutor's Office works with support units of the State Tax Administration Agency and of the Office for Oversight of the State Administration, as well as police units.

232. In the course of its work since 2017, the number of court cases has increased. The Office of the Special Prosecutor against Corruption has been used as a model in other European Union member States.

233. Penalties for corruption offences were revised in 2015 and 2019. Under Organic Act No. 1/2015, mentioned previously, a technical review of the offences of private corruption, embezzlement and corruption of foreign public agents was carried out. In addition, tougher penalties were introduced for corruption offences in public administration. Periods of disqualification were lengthened, and penalties of special disqualification from holding public office were introduced. Lastly, new offences were created covering the illegal financing of political parties.

234. Subsequently, Organic Act No. 1/2019, of 20 February 2019, amending Organic Act No. 10/1995, of 23 November 1995 (the Criminal Code), with a view to transposing European Union directives on finance and terrorism and addressing international issues, made further amendments in order to complete the alignment of the Spanish legal order.

235. The publicly accessible database on corruption proceedings allows citizens to learn about the actions of the judiciary in the global framework of the fight against corruption through its main indicators, which are updated every three months.