

Document #2085498

HRW – Human Rights Watch

World Report 2023 - Spain

Spain’s pushback policy contributed to the deaths of migrants at its land and sea borders. Poverty increased during the year as inflation rose, particularly affecting food and energy prices. A landmark new law on rape and sexual consent was an improvement given weaknesses in Spanish legislation. Evictions of renters and mortgage-holders continued, despite an extension of a pandemic-related moratorium for people who could demonstrate socioeconomic vulnerability. Thousands of people living in an informal settlement near Madrid entered a third year without electricity.

Asylum and Migration

According to the [United Nations refugee agency, UNHCR](#), by late October at least 25,389 people had arrived irregularly by sea to Spain’s mainland and the Canary Islands, while 1,720 arrived by land. The lack of safe and legal routes continued to cause harm and death. Caminando Fronteras, a migrant rights group, [estimated](#) that 978 people had died at sea trying to cross by boat from Africa to Spain during the first half of the year, with about four in five of the deaths on the Atlantic route.

On June 24, at least 23 African men [died](#) during an attempt by as many as 2,000 people to enter Spanish territory by scaling a fence that separates the enclave of Melilla from Moroccan territory. The causes of death have not been definitively ascertained. Footage of the event showed Moroccan police beating people scaling the fence and Spanish police using tear gas and working with their Moroccan counterparts to send people back over the border. Dozens of migrants and police forces on both sides of the border were injured. Spanish authorities subsequently confirmed that they had summarily returned people to Morocco. Investigative journalists [published findings](#) in November that one migrant died on Spanish territory, and that his body was yet to be returned to his family.

In May, Spain ignored UNHCR concerns about the risk of torture and [deported](#) a 32-year-old [Algerian asylum seeker](#) who had been convicted of criminal offenses in Algeria. In May, the human rights ombudsperson [reminded authorities](#) that people from Morocco were entitled to seek international protection at the Temporary Stay Center for Foreigners in Melilla, from which they were being turned away.

An October [ruling](#) by the Constitutional Tribunal, in a case brought by a Moroccan man who arrived by boat in the Canary Islands in November 2020 and whom authorities tried to deport the next month, [criticized police](#) for failing to ensure his access to legal representation on arrival. The tribunal also drew attention to repeated failure by the police in this case and others to ensure proper judicial oversight of migration detention.

By late October, Spain had granted [temporary protection](#) to more than [150,000 people](#) fleeing the conflict in Ukraine, including Ukrainian nationals, stateless people, and their dependents; Ukrainians already in Spain with and without regular status and unable to return home; and third country nationals previously living in Ukraine and unable to return to their country of origin.

By June, Spain had provided work and residence permits to [9,300 young people](#) aged 16 to 23 who had either come to Spain as unaccompanied children or had been in state care, using a regularization program [established](#) in late 2021. The measure was focused on ensuring regulated [access to the labor market](#), initially in agriculture, but increasingly in hospitality, manufacturing, and commerce.

Poverty and Inequality

Official [data](#) published in June found that 27.8 percent of the population was “at risk of poverty or social exclusion” in the country in 2021. This represented a small increase from the previous year, which equates to 397,000 more people, [according](#) to a leading anti-poverty nongovernmental organization. More than half ([54 percent](#)) of single-parent households, largely women-led, were at risk of poverty.

Governmental efforts, including furlough payments and additional social transfers, to blunt the economic impact of the Covid-19 pandemic may have helped slow this increase, as the percentage of the population in severe social and material deprivation decreased marginally over this period. However, official data from 2021 showed that many households were already facing an increasing cost of living, as the percentage of households struggling with housing and energy costs increased.

Price inflation increased by [10.5 percent](#) between August 2021 and August 2022, reaching the highest level since the current official measure began in 1994 and exacerbating concerns about increasing poverty. By September, certain staple foods were between [25 and 40 percent more expensive](#) than the previous year.

In May, the country’s main food bank network [predicted](#) that demand would rise by a fifth by the year’s end, driven by the pressures of inflation on people living on low incomes.

The government [adopted reforms](#) to the Minimum Vital Income (IMV) program, established in May 2020, to reduce high rejection rates, improve the flawed eligibility calculation method, and ensure faster processing of applications for the social assistance program. Although the government raised IMV support levels at the start of the year, including specific additional payments for single-parent households and people with disabilities, the increases were rapidly outpaced by inflation. The program also retained arbitrary criteria, which continued to exclude most people aged between 18 and 22, and people without one year’s continuous legal residence.

In June, the government [extended](#) to the end of the year a moratorium on evictions of people who could demonstrate “social and economic vulnerability,” a measure introduced in 2020 to mitigate the impact the Covid-19 pandemic. However, [despite this move](#), housing rights activists [raised concerns](#) about the adequacy of the law’s definition of “vulnerability” as evictions continued to be enforced, with 11,000 taking place in the first three months of the year.

A government [draft law](#) that would introduce the statutory concept of “affordable housing” and seek to remedy a system-wide lack of public housing was pending in Parliament at time of writing.

At time of writing, an [estimated 4,000 people](#), including more than 1,800 children, living in parts of Cañada Real, an informal settlement in greater Madrid, were entering a third year without electricity. Residents raised concerns about dealing with extreme weather, and the impact on children’s [access to education and hygiene](#). Residents [filed suit](#) in September asking for an investigation into the move by authorities and energy providers to cut off utilities in October 2020. In October, in an admissibility [decision](#) relating to a separate complaint brought by residents of Cañada Real, the European Committee of Social Rights directed the government to take immediate measures to ensure sufficient electricity to the settlement or offer suitable alternative accommodation to residents.

Gender-Based Violence and Sexual Abuse

In August, Parliament [approved](#) long-awaited legislation on rape and sexual consent. The new “Yes Means Yes” law clarifies that consent cannot be inferred from passivity, silence, or by default, and attempts to close a loophole in which rape of children could be tried as a lower offense of “sexual abuse” where violence and intimidation are not proven. Activists [raised concerns](#) that certain recategorization of crimes under the new law reduces minimum sentences for some sexual crimes, which can also have retrospective application.

Official figures published in [March](#) and [June](#) showed that complaints to the authorities of gender-based violence increased during the prior year and the first three months of 2022. The figures also showed that judicial authorities were using new powers from 2021 to suspend visitation rights in cases of suspected domestic violence.

In July, the human rights ombudsperson’s [new service](#) for victims of clerical sexual abuse began its work, and by late September [reported](#) that it had attended to [230 victims](#), most of whom are men. The ombudsperson’s investigation—the first of its kind in Spain—is in progress.

Right to Health

In July, the UN CEDAW [held](#) that Spanish health authorities had in 2012 [violated the rights](#) of a woman known as NAE by forcing her to have a premature induction of labor and cesarean delivery without her consent, thereby subjecting her to obstetric violence. The committee recommended that the state provide reparations to NAE, ensure an improved approach to free, prior, and informed consent in the context of reproductive health, and greater respect for patients’ rights when dealing with complaints in the judicial system.

The government announced [draft legislation](#) in May to allow women workers to take three days of [paid leave](#) per month for severe period pain and proposing to remove the three-day waiting period for access to abortion and a parental requirement for girls aged 16 and 17 to access abortion.

Surveillance and Right to Privacy

In April, digital rights researchers based in Canada [published findings](#) that the phones of at least 65 people, including Catalan and Basque pro-independence politicians, lawyers, and civil society activists, had been infected with spyware. Later reports suggested the National Intelligence Center (CNI) was responsible for the hack. The human rights ombudsman’s investigation into the affair [concluded](#) that the CNI’s actions had been in line with existing law but encouraged an assessment of whether the legislation governing surveillance was adequate.

In May, the government [dismissed](#) the director of the National Intelligence Centre (CNI) after further reports of spyware attacks. The prime minister [announced](#) legislation proposing a [restructuring](#) and change in oversight of the CNI, and a [change](#) in the official secrets law. Cybersecurity experts and [human rights groups](#) were [critical](#) of whether the steps taken were sufficient to address the lack of oversight.

Discrimination and Intolerance

A March [report](#), produced by two nongovernmental organizations and financed by the Equality Ministry, documented widespread discrimination by real estate agents and private landlords based on racial, ethnic, or national origin. The same report also found that people of minority racial or ethnic background made up 90 percent of inhabitants of informal settlements.

Equal treatment and anti-discrimination [legislation](#), which became law in July, [modified existing hate-crime legislation](#) to include anti-gypsyism (anti-gitanismo) and aporofobia (fear of the poor) as prosecutable motives [in criminal law](#).

In September, the government sought to [expedite](#) a [draft law](#) with provisions on gender recognition based on self-identification for transgender and non-binary people, including children. The lower house of parliament’s [rejected](#) a similar proposed legislation the previous year. The September draft law also proposed improvements to protections from discrimination for lesbian, gay, bisexual, and transgender (LGBT) people.

ecoi.net summary:

Annual report on the human rights situation in 2022

Country:

Spain

Source:

[HRW – Human Rights Watch](#)

Original link:

<https://www.hrw.org/world-report/2023/country-chapters/spain>

Document type:

Periodical Report

Language:

English

Published:

12 January 2023

Available on ecoi.net since:

16 January 2023

Document ID:

2085498

Austrian Red Cross
Austrian Centre for Country of Origin and Asylum
Research and Documentation (ACCORD)

Wiedner Hauptstraße 32, 1041 Wien
[T \(Telefon\)](tel:+43158900583) +43 1 589 00 583
[F \(Fax\)](tel:+43158900589) +43 1 589 00 589
info@ecoi.net

Contact
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ecoi.net is run by the Austrian Red Cross (department ACCORD) in cooperation with Informationsverbund Asyl & Migration. ecoi.net is funded by the Asylum, Migration and Integration Fund, the Austrian Ministry of the Interior and Caritas Austria. ecoi.net is supported by ECRE & UNHCR.

