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Spain 2020

Health care workers lacked adequate personal protective equipment at the beginning of the pandemic. COVID-19 deaths among older people were disproportionate. Police officers issued more than one million fines and subjected some individuals to arbitrary punishments for COVID-19 lockdown breaches. Allegations of excessive use of force by law enforcement officers policing protests continued. There was a significant rise in calls to helplines by women at risk of gender-based violence. Lack of affordable housing and homelessness remained a major concern. Migrants and refugees were confined to overcrowded facilities in Melilla during lockdown.

Background

In January, a new coalition government was sworn in comprising the socialist party (PSOE) and the left-wing Unidas Podemos. On 14 March, three days after the World Health Organization declared the COVID-19 outbreak a global pandemic, the government approved a Royal Decree establishing a state of emergency. The decree granted emergency powers to enforce lockdown regulations and was extended on six occasions until 21 June. In October, an additional state of emergency was adopted for six months.

In June, Parliament adopted the Minimum Subsistence Income, a benefit intended for people living in severe poverty.

Spain accepted most of the recommendations made under the UN Universal Periodic Review, including those referring to freedoms of expression and peaceful assembly, as well as those relating to past human rights violations.¹

Assistance to victims of gender-based violence was considered essential and a Specific Contingency Plan was approved to ensure that such services remained available during the lockdown.

In March, the government announced a draft law on sexual violence that included a new legal definition of rape to comply with international human rights law.

Right to health

By the end of the year, at least 93,000 health workers had contracted COVID-19, accounting for 5.1% of cases; 89 died as a result. Over 78% of infected health care workers were women.

During the first weeks of the pandemic, there was a shortage of quality personal protective equipment (PPE). As a result, health care workers were frequently forced to resort to inadequate PPE or to reuse items designed for single use. Health care workers in settings outside hospitals, such as primary care medical centres and care homes, received PPE later than staff in hospitals.

Additionally, during the first three months of the pandemic, health care workers only had limited access to COVID-19 tests.

Rights of older people

As of November, around 20,000 older people had died from COVID-19 in care homes; they comprised approximately 50% of all COVID-19 deaths reported until that period. It was estimated that around half of the deaths of older people in care homes occurred in the capital, Madrid, and in Catalonia. There were concerns that referral protocols in both regions which recommended treating sick older people in the care homes rather than transferring them to hospitals were discriminatory and violated the right to health.

At the height of the pandemic some older people living in care homes were confined to their rooms, with little or no contact with their families, for an indefinite period and without effective supervision by the national and regional authorities, resulting in violations of their human rights. Throughout this time, health care workers' associations expressed concerns about persistent staff shortages and the failure to provide sufficient quality PPE to staff, as well as the inadequate provision of medical care to people living in care homes in the first months of the pandemic.²

Women’s rights

During the lockdown, there was a 60% increase in women calling the support helplines against gender-based violence run by the Ministry of Equality, compared to the same period the previous year. Online consultations with women seeking safety during the lockdown increased by 586%. Forty-five women were killed by their partners or former partners.

Right to housing

Many people, especially in low-income areas, continued to face challenges in accessing adequate housing. Royal Decree Law 8/2020 and Royal Decree Law 11/2020, both adopted in March, established a three-month moratorium on mortgage payments for particularly vulnerable people and a six-month moratorium on rental payments respectively. The decrees also suspended eviction procedures for vulnerable households without alternative housing. Royal Decree Law 30/2020 adopted in September extended this suspension until January 2021.

In April, the UN Special Rapporteur on extreme poverty and human rights recommended that Spain introduce new legislation to guarantee the right to housing. The Rapporteur also recommended greatly increased investment in public housing and fiscal disincentives for leaving housing vacant, as well as increased rent-control arrangements in key cities.

Excessive use of force

The 2015 Law on Public Security, which limits freedoms of expression, assembly and information, continued to be enforced, adding to the coercive powers of security forces.

During the state of emergency, and until 23 May, law enforcement officials issued over one million fines and arrested 8,547 people for breaches of lockdown. There were reports of excessive and disproportionate use of force by law enforcement officials to ensure compliance with lockdown rules. Law enforcement officials lacked clear criteria to use their powers and applied them arbitrarily, for example by imposing fines on journalists who were carrying out their job and against people who were homeless or experienced other specific marginalization.³

In June, the government revealed that four internal investigations into the National Police were ongoing and that 41 Civil Guards had been sanctioned for their actions during the state of emergency.

In October, the European Court of Human Rights found that Spain had violated the right to freedom of assembly and association in the case of a woman who had been left permanently injured after police forcefully dispersed a spontaneous peaceful protest against austerity measures and unemployment in 2014.

Investigations into allegations of excessive use of force by law enforcement officials during the October 2017 protests in Catalonia remained open at the end of the year.

Freedoms of expression and assembly

At the end of the year, Jordi Sánchez and Jordi Cuixart, presidents of two pro-independence organizations in Catalonia, remained in prison after being convicted for sedition in connection with protests and the referendum on independence in 2017.

In November, the Constitutional Court found that offences foreseen in the Law on Public Security, criminalizing some legitimate forms of protests, were in line with the Constitution, but found that the requirement of prior authorization in the use of video recordings of the police limited the right to freedom of information.

Rights of refugees, asylum-seekers and migrants

Following the declaration of the state of emergency, eight migration detention centres were closed, and irregular migrants were released to help prevent the spread of COVID-19. Alternative accommodation was provided. However, in June, the government announced the progressive re-opening of detention centres due to the increase of arrivals by sea.

While the total number of people arriving irregularly in Spain grew by 29%, in comparison to 2019, irregular arrivals in the Canary Islands increased by 756.8%. Between June and November, lack of adequate and sufficient accommodation resulted in many refugees and migrants spending several days outdoors on the docks in unsafe conditions.

The number of asylum applications dropped significantly due to restrictions of movement and border closures. From January to November, 84,705 people submitted asylum applications; 39,839 of those were women and 15,206 were minors, compared to more than 117,000 people in 2019. Concerns remained about the backlog of asylum applications, with 99,105 cases pending in November. Lockdown restrictions compounded disruptions to asylum interviews and renewal of documents. Asylum-seekers encountered difficulties in obtaining an appointment to formalize their asylum application.

Asylum-seekers and migrants continued to live in overcrowded reception conditions and without adequate protection from COVID-19. The Centre for Temporary Stay of Immigrants in Melilla remained at overcapacity during the pandemic, accommodating up to 1,600 people, including minors and lesbian, gay, bisexual, transgender and intersex people. Despite the health risks, transfers of people from Melilla to mainland Spain were limited.

In July, the Spanish Supreme Court reiterated that asylum-seekers had a right to freely move across Spanish territory and access the mainland from Ceuta and Melilla, upholding 22 lower court decisions. However, the government continued its containment policy in both Ceuta and Melilla at the end of the year.

In February, the European Court of Human Rights found that Spain had not breached the European Convention on Human Rights when it summarily expelled two men from Melilla to Morocco in 2014.

In November, the Constitutional Court upheld the constitutionality of the provision allowing for border rejections of people attempting to enter the Spanish enclaves of Ceuta and Melilla, provided that it applies to individualized entries, border rejections are subjected to judicial review and carried out in compliance with international law.

1. [The authorities must fulfil their commitments and take measures to guarantee the right to freedom of expression and peaceful assembly - Human Rights Council adopts Universal Periodic Review outcome on Spain \(EUR 41/2732/2020\)](#)
2. [Spain: Older people in care homes abandoned during COVID19 pandemic \(Press release, 3 December\)](#)
3. [Human rights violations during the state of emergency \(in Spanish only, Violaciones de derechos humanos durante el estado de alarma, June\)](#)

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