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LIBERTIES

RULE OF LAW REPORT

2025



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SPAIN

FOREWORD

This country report is part of the Liberties Rule of Law Report 2025, which is the sixth annual report on the state of rule of law in the European Union (EU) published by the Civil Liberties Union for Europe (Liberties). Liberties is a non-governmental organisation (NGO) promoting the civil liberties of everyone in the EU, and it is built on a network of national civil liberties NGOs from across the EU. Currently, we have member organisations in Belgium, Bulgaria, the Czech Republic, Croatia, Estonia, France, Germany, Hungary, Ireland, Italy, Latvia, Lithuania, Malta, the Netherlands, Poland, Romania, Slovakia, Slovenia, Spain and Sweden, as well as a contributing partner organisation in Greece.

Liberties, together with its members and partner organisations, carries out advocacy, campaigning and public education activities to explain what the rule of law is, what the EU and national governments are doing to protect or harm it, and gathers public support to press leaders at EU and national level to fully respect, promote and protect our basic rights and values.

The 2025 report was drafted by Liberties and its member and partner organisations, and it covers the situation during 2024. It is a ‘shadow report’ to the European Commission’s annual rule of law audit. As such, its purpose is to provide the European Commission with reliable information and analysis from the ground to feed its own rule of law reports, and to provide an independent analysis of the state of the rule of law in the EU in its own right.

Liberties’ report represents the most in-depth reporting exercise carried out to date by an NGO network to map developments in a wide range of areas connected to the rule of law in the EU. The 2025 report includes 21 country reports that follow a common structure, mirroring and expanding on the priority areas and indicators identified by the European Commission for its annual rule of law monitoring cycle. Over forty member and local partner organisations contributed to the compilation of these country reports.

[Download the full Liberties Rule of Law Report 2025 here.](#)

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ABOUT THE AUTHORS

Xnet-Institute for Democratic Digitalisation



Xnet is a Barcelona-based collective of activists and specialists dedicated to advancing digital rights and modernising democracy for the digital age. Since its inception in 2008, Xnet has championed internet freedom, transparency, and anti-corruption through a combination of technopolitical tools and advocacy.

KEY CONCERNS

Justice System

Spain did not reform its judicial system, which maintained structures inherited from the dictatorship.¹ In 1985, a governance model controlled by the two main parties was established.² This is the reason for the blockage of the General Council of the Judiciary (CGPJ), blocked since 2018 due to the lack of consensus between the two majority parties.³ In 2024, the European Union intervened to force its

renewal, evidencing systemic failures and the inability to solve the problem.⁴

The Council of Europe's mediation to unblock the renewal of the CGPJ did not result in any substantial changes.⁵ Spain has not adopted measures to ensure that the members of the CGPJ are elected by judges, as requested by the European Commission.⁶ Decision-making remains in the hands of political parties, without transparency or objective criteria, thus perpetuating undue political influence.⁷ While recognising some progress, the European Commission urged further reforms to ensure

- 1 José Manuel Romero, *25 Years of a Judiciary Controlled by the Right (25 años de Poder Judicial bajo control de la derecha)*, *El País*, 11 October 2022, <https://elpais.com/espana/2022-10-11/25-anos-de-poder-judicial-bajo-control-de-la-derecha.html>.
- 2 Guy Hedgecoe, *Spain's Judiciary in the Dock*, *POLITICO*, 26 October 2020, <https://www.politico.eu/article/spains-judiciary-in-the-dock/>.
- 3 Fernando Portillo, *The Conflict of the General Council of the Judiciary (El lío del Consejo General del Poder Judicial)*, *Economist & Jurist*, 13 November 2023, <https://www.economistjurist.es/premium/la-firma/el-lio-del-consejo-general-del-poder-judicial/>.
- 4 *EFE Noticias*, *The European Commission Agrees to Mediate to Unblock the Renewal of the CGPJ (La Comisión Europea acepta mediar para desbloquear la renovación del CGPJ)*, 26 January 2024, <https://efe.com/espana/2024-01-26/comision-europea-mediacion-desbloqueo-cgpj/>.
- 5 *EFE Noticias*, *The European Commission Agrees to Mediate to Unblock the Renewal of the CGPJ (La Comisión Europea acepta mediar para desbloquear la renovación del CGPJ)*, 26 January 2024, <https://efe.com/espana/2024-01-26/comision-europea-mediacion-desbloqueo-cgpj/>.
- 6 Spain, *Organic Law 3/2024 of 2 August, amending Organic Law 6/1985 of 1 July on the Judiciary, and Law 50/1981 of 30 December regulating the Organic Statute of the Public Prosecutor's Office (Ley Orgánica 3/2024, de 2 de agosto, de reforma de la Ley Orgánica 6/1985, de 1 de julio, del Poder Judicial, y de reforma de la Ley 50/1981, de 30 de diciembre, por la que se regula el Estatuto Orgánico del Ministerio Fiscal)*, accessed 28 November 2024, <https://www.boe.es/buscar/doc.php?id=BOE-A-2024-16127>.
- 7 José Marcos, *For a Judiciary Held Hostage (Para un gobierno de los jueces maniatado)*, *El País*, 25 June 2024, <https://elpais.com/espana/2024-06-25/cronologia-cinco-anos-de-infierno-para-un-gobierno-de-los-jueces-maniatado-y-convertido-en-ariete-politico-del-pp.html>.

an effective separation of powers and to avoid future deadlocks.^{8,9}

Anti-Corruption Framework

In Spain, corruption is mainly concentrated in the major political parties and high state institutions,¹⁰ as evidenced by the ‘exile’ of King Emeritus Juan Carlos I. Citizens rarely encounter administrative corruption, but scandals involving the political elite are common.¹¹ Most public procurement is the privilege of large companies close to the government.¹²

Progress in implementing European Commission recommendations, such as the mandatory lobbying register, has been unsatisfactory due to a lack of structural enforcement, which perpetuates systemic problems of opacity, corruption in public procurement and weak whistleblower protection. The proposed recommendations are not structural enough to solve the problem. The problem is systemic.^{13,14}

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- 8 *EFE Noticias, The European Commission Agrees to Mediate to Unblock the Renewal of the CGPJ (La Comisión Europea acepta mediar para desbloquear la renovación del CGPJ)*, 26 January 2024, <https://efe.com/espana/2024-01-26/comision-europea-mediacion-desbloqueo-cgpj/>.
- 9 Spain, Organic Law 3/2024 of 2 August, amending Organic Law 6/1985 of 1 July on the Judiciary, and Law 50/1981 of 30 December regulating the Organic Statute of the Public Prosecutor’s Office (Ley Orgánica 3/2024, de 2 de agosto, de reforma de la Ley Orgánica 6/1985, de 1 de julio, del Poder Judicial, y de reforma de la Ley 50/1981, de 30 de diciembre, por la que se regula el Estatuto Orgánico del Ministerio Fiscal), accessed 28 November 2024, <https://www.boe.es/buscar/doc.php?id=BOE-A-2024-16127>.
- 10 José Abreu, *Political Corruption in Spain: A Descriptive Analysis (2000–2020) (La corrupción política en España: un análisis descriptivo (2000–2020))*, Documents de treball (Institut de Recerca en Economia Aplicada Regional i Pública (IREA)), 2022, <https://diposit.ub.edu/dspace/handle/2445/191715>.
- 11 Carlos Rocha Ley and Marta Ley, *The Paradox of Corruption in Spain: There’s Little, but It Makes a Lot of Noise (La paradoja de la corrupción en España: hay poca, pero hace mucho ruido)*, *El Confidencial*, 16 March 2024, https://www.elconfidencial.com/espana/2024-03-16/paradoja-corrupcion-espana-hay-poca-hace-mucho-ruido_3849362/.
- 12 Statista, *Topic: Corruption in Spain (Tema: Corrupción en España)*, accessed 28 November 2024, <https://es.statista.com/temas/3543/corrupcion-en-espana/>.
- 13 Wikipedia contributors, *List of Spanish Politicians Involved in Judicial Cases (Anexo: Políticos de España implicados en casos judiciales)*, *Wikipedia, la enciclopedia libre*, 13 November 2024, https://es.wikipedia.org/w/index.php?title=Anexo:Pol%C3%ADticos_de_Espa%C3%B1a_implicados_en_casos_judiciales&oldid=163568012.
- 14 Sara González and Albert Martín, *Political Parties Do Not Prioritize Passing Anti-Corruption Laws (Albert Martín: ‘Los partidos no priorizan aprobar leyes contra la corrupción’)*, *El Periódico*, 2 November 2024, <https://www.elperiodico.com/es/politica/20241102/corrupcion-partidos-politicos-albert-martin-observatori-ciutada-catalunya-leyes-110893731>.

Media Environment and Media Freedom

Current policies to combat disinformation often focus on restricting freedom of expression rather than addressing the systemic source of the problem: the disinformation practices of powerful actors such as governments, political parties and major donors. This perspective suggests that the measures adopted may distract attention from the real sources of disinformation, with negative consequences for press freedom and freedom of expression.¹⁵

In November 2022, the Council of Ministers approved the Preliminary Draft Law on Transparency and Integrity in the Activities of Interest Groups, still pending in 2024. Access to public information in Spain continues to be limited by obsolete regulations such as the Official Secrets Law of 1968.

Checks and Balances

Although the agreement to renew the General Council of the Judiciary is a step forward, delays in its reform and insufficient progress in areas such as the regulation of lobbying, access to information and conflicts of interest show a weak institutional commitment.

Key recommendations of the European Commission's 2024 report have not been implemented. The lack of progress in areas such as transparency and judicial independence reflects a lack of political will and structural inertia to address systemic problems.

Civic Space

After 15 May 2011, Spain experienced massive social mobilisations supported by up to 80% of the population. In response, the 'Gag Law' was introduced in 2015, restricting fundamental rights. Although its repeal was promised and there was a parliamentary majority for it, the reforms have been insufficient, maintaining regressive provisions that undermine civil rights and trust in political power.¹⁶

The recommendations of the Council of Europe Commissioner for Human Rights, which highlighted how the application of the Gag Law and certain articles of the Penal Code continue to have a negative impact on the exercise of the rights to freedom of assembly and expression, in particular on human rights defenders and journalists, have not been adequately addressed. These measures continue to have a demobilising effect on citizens,

15 Xnet, *#FakeYou: An Activist's Guide to Defeating Disinformation*, Xnet - Internet Freedoms & Digital Rights, 23 July 2024, <https://xnet-x.net/en/fakeyou-disinformation-free-download/>.







16 Amnistía Internacional, *Gag Laws: Analysis of 9 Years of Restrictions and Freedom of Expression in Spain (Leyes Mordaza: Análisis de 9 años de restricciones y libertad de expresión en España)*, accessed 29 November 2024, <https://www.es.amnesty.org/en-que-estamos/blog/historia/articulo/ley-mordaza/>.

making it difficult for them to fully exercise their democratic rights.¹⁷

Disregard of Human Rights Obligations and Other Systemic Issues Affecting the Rule of Law Environment

A pattern of violations and lack of accountability persists in Spain, including uninvestigated cases of torture, unfulfilled European judgments and a housing crisis that leaves many unprotected.

State of play (versus 2024)

-  Justice system
-  Anti-corruption framework
-  Media Environment and Media Freedom
-  Checks and balances
-  Civic Space
-  Human Rights

Legend

Regression

No progress

Progress



¹⁷ Commissioner for Human Rights, *Spain: The Review of the 2015 Law on Citizens' Safety Should Result in Better Protecting Human Rights*, accessed 29 November 2024, <https://www.coe.int/en/web/commissioner/-/spain-the-review-of-the-2015-law-on-citizens-safety-should-result-in-better-protecting-human-rights>.

JUSTICE SYSTEM –

Key recommendations

- *Reform the judicial appointment system, avoiding automatic election of judges: the European Union's recommendation that judges elect members of the CGPJ is not the ideal solution in the Spanish context, where the continuity of judicial elites since Franco's rule has perpetuated the lack of transparency and political influence.¹⁸ Any change must be accompanied by profound reforms that democratise access to judicial structures and guarantee impartiality in appointments.*

- *Diversify and strengthen access to and the operation of the judicial career in Spain:*

Specialised judicial training programmes with remuneration, as in France, to reduce socio-economic barriers.¹⁹

A dual system with paid internships, as in Germany, for rotations in different legal institutions.²⁰

A selection model based on merit and professional experience, overseen by independent commissions, as in the United Kingdom.²¹

18 Ricardo Bodas Martín, *European Standards and the Renewal of the CGPJ (Los estándares europeos y la renovación del CGPJ)*, *El País*, 31 January 2024, <https://elpais.com/espana/2024-01-31/los-estandares-europeos-y-la-renovacion-del-cgpj.html>.

19 Rosario Serra Cristóbal, *Some Proposals for Improving the Selective Tests for Access to the Judicial Career: Weighing the Merits and Capacities Required by the Role of Judge (Algunas propuestas de mejora de las pruebas selectivas para el acceso a la carrera judicial. Ponderar los méritos y capacidades que la función de juez demanda)*, *Revista Española de Derecho Constitucional*, no. 130 (18 April 2024): 79–113, <https://doi.org/10.18042/cepc/redc.130.03>.

20 Clara Nuño, *How the Judiciary Is Elected in Other European Countries (Así se elige al gobierno de los jueces en otros países de Europa)*, *Newtral*, 17 November 2020, <https://www.newtral.es/cgpj-reforma-eleccion-jueces-europa/20201117/>.

21 Asociación Judicial Francisco de Vitoria, *Access to the Judicial Career in Spain: Analysis of the Situation and Proposals for Improvement (El acceso a la Carrera Judicial en España: análisis de la situación y propuestas de mejora)*, *AJFV (blog)*, 3 February 2021, <https://www.ajfv.es/el-acceso-a-la-carrera-judicial-en-espana-analisis-de-la-situacion-y-propuestas-de-mejora/>.

Judicial independence

Appointment and selection of judges, prosecutors and court presidents

In July 2024, the OSCE/ODIHR (Office for Democratic Institutions and Human Rights) issued a series of recommendations to strengthen the independence of the judiciary in Spain. These include reforming the process of appointing judges and changing the structure of the General Council of the Judiciary (CGPJ) to ensure a model that is less susceptible to political influence.^{22,23,24}

Political pressure from the European Commission was key to breaking the more than five-year deadlock on the renewal of the General Council of the Judiciary (CGPJ) in July 2024. However, the CGPJ continues to face significant internal difficulties in reaching consensus on a reform of the system for electing its members, a critical point highlighted by both the European Commission and national legal experts.^{25,26}

Promotion of judges and prosecutors

The first problem is the lack of socio-cultural diversity in the profession. The promotion system in the Spanish judiciary has been criticised

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- 22 OSCE Office for Democratic Institutions and Human Rights, *Opinion on the Proposed Changes to the Modalities for Nominating Members of the Constitutional Court of Spain* (Opinion-Nr.: JUD-ESP/459/2023 [NR]), 24 March 2023, <https://www.osce.org/files/f/documents/7/f/540689.pdf>.
 - 23 OSCE Office for Democratic Institutions and Human Rights, *Spain: Opinion on the Proposed Changes to the Modalities for Nominating Members of the Constitutional Court*, accessed 28 November 2024, <https://www.osce.org/odihhr/540689>.
 - 24 Manuel Marraco, *The OSCE Also Criticizes the System for Electing Spain's CGPJ, Which the Government Refuses to Change: 'It Is Extremely Politicized'* (*La OSCE también critica el sistema de elección del CGPJ que el Gobierno no quiere cambiar: 'Es extremadamente politizado'*), *El Mundo*, 30 March 2023, <https://www.elmundo.es/espana/2023/03/30/6425ce27fdddffc9b98b45d0.html>.
 - 25 Silvia Martinez, *The European Commission Celebrates Agreement for the CGPJ Because "It Improves the Situation of the Judiciary in Spain"* (*La Comisión Europea celebra acuerdo para el CGPJ porque "mejora la situación del poder judicial en España"*), *El Periódico*, 25 June 2024, <https://www.elperiodico.com/es/politica/20240625/comision-europea-celebra-acuerdo-cgpi-104279472>.
 - 26 Reyes Rincón, *The Renewed Judicial Council Stumbles Over Reform of the System for Electing Judges at the Edge of the Agreed Deadline* (*El renovado Poder Judicial se atasca en la reforma sobre el sistema de elección de vocales al filo del plazo pactado*), *El País*, 15 January 2025, <https://elpais.com/espana/2025-01-15/el-renovado-poder-judicial-se-atasca-en-la-reforma-sobre-el-sistema-de-eleccion-de-vocales-al-filo-del-plazo-pactado.html>.

for its lack of transparency and the perception of political or personal influence, especially at senior levels.^{27,28} This undermines both judicial independence and public confidence. Although formal procedures based on merit and capacity exist, stricter oversight and additional measures are needed to ensure fairness and transparency.

Remuneration/bonuses for judges and prosecutors

Salaries for judges and prosecutors in Spain do not reflect the workload or responsibility of their roles, which has a negative impact on attracting and retaining diverse talent in the judiciary.^{29,30} In addition, the private pension system managed by mutual entities is inadequate, with pensions in some cases amounting to around €300 per month.³¹

To address ongoing issues in this area, authorities should:

- Reduce workload and efficiency criteria by focusing on quality rather than quantity.
- Update salary structures to reflect the current needs of the justice system. This point refers to the entire chain, up to and including the state security forces or social services.
- Reform the private pension system to allow the transition to the General Social Security System, which guarantees adequate pensions.

27 Ángel Rodríguez, *From the Judiciary to Politics and Back: The Exercise of Jurisdictional Functions After Holding Other Public Offices (De la judicatura a la política y viceversa. El ejercicio de funciones jurisdiccionales después de ejercer otras funciones públicas)*, *Teoría y Realidad Constitucional*, no. 50 (18 December 2022): 185–217, <https://doi.org/10.5944/trc.50.2022.36372>.

28 Maria Angels Gili Saldaña, Nuno Garoupa, and Fernando Gómez Pomar, *Explaining the Behaviour of the Spanish Judiciary: A Critical Review of the Empirical Evidence (Explicando el comportamiento de la judicatura española. Una revisión crítica de la evidencia empírica)*, *Economía Industrial*, no. 398 (2015): 89–101, <https://dialnet.unirioja.es/servlet/articulo?codigo=5405258>.

29 *Infobae*, *The Salary of Judges and Prosecutors in Spain: How Much Do They Earn After the Approved Raise? (El sueldo de los jueces y fiscales en España: ¿cuánto cobran tras el aumento firmado?)*, 23 May 2023, <https://www.infobae.com/espana/2023/05/23/el-sueldo-de-los-jueces-y-fiscales-en-espana-cuanto-cobran-tras-el-aumento-firmado/>.

30 Marcelino Abad Ramón, *How Much Do Court Clerks, Judges, Prosecutors, and Other Court Officials Earn? (¿Cuánto ganan los letrados de la Administración de Justicia, jueces, fiscales y otros funcionarios de los juzgados?)*, *Cinco Días*, 23 January 2023, https://cincodias.elpais.com/legal/2023/01/19/juridico/1674146050_331922.html.

31 *EFE*, *Thousands of Lawyers and Legal Representatives Demand Fair Pensions and a Move to the General Scheme in Madrid (Miles de abogados y procuradores reclaman en Madrid pensiones dignas y pasarse al régimen general)*, *RTVE.es*, 3 February 2024, <https://www.rtve.es/noticias/20240203/miles-abogados-procuradores-reclaman-madrid-pensiones-dignas-pasarse-regimen-general/15954856.sht>.

Independence/autonomy of the prosecution service

On 18 December 2024, the General Council of the Judiciary approved a report on the legal reform transferring the investigation of criminal cases to prosecutors. This opinion considers it “imperative” to strengthen the independence of the public prosecutor’s office beforehand in order to avoid “external interference or pressure”.³²

Independence of the Bar (chamber/association of lawyers) and of lawyers

The legal profession in Spain is characterised by precarious working conditions and inadequate remuneration,³³ which have a negative impact on the quality of legal services³⁴ and perpetuate economic inequalities.³⁵ Moreover, the scales

of access to free justice affect the middle and working classes, who often do not have access to quality legal representation.³⁶ It is necessary to update payment scales for public defenders and provide adequate resources to ensure equal legal representation without economic bias.

Quality of justice

Accessibility of courts (e.g. court fees, legal aid, language)

Court fees in Spain can be prohibitive for some citizens, limiting their access to justice. Although a system of legal aid exists, its effectiveness has been questioned, particularly with regard to the remuneration of public defenders. Moreover, these rates and the quality of free legal assistance vary considerably between the Autonomous Communities, creating

32 General Council of the Judiciary (Spain), Report on the Reform of the Criminal Procedure Law (Informe sobre la reforma legal que transfiere la instrucción de las causas penales a los fiscales), approved on 18 December 2024, published on the official website of the General Council of the Judiciary (CGPJ), <https://www.poderjudicial.es/cgpj/es/Poder-Judicial/Consejo-General-del-Poder-Judicial/Actividad-del-CGPJ/Informes>.

33 Cristina Alonso Pascual, *How Much Do Public Defenders Earn in Spain? (¿Cuánto se cobra en el turno de oficio en España?)*, *Newtral*, 4 October 2021, <https://www.newtral.es/abogados-de-oficio-retribuciones-justicia-gratuita/20211004/>.

34 Ministry of Justice (Spain), *Asistencia Jurídica Gratuita - Trámites y Gestiones Personales (Free Legal Aid - Personal Procedures)*, accessed 28 November 2024, <https://www.mjusticia.gob.es/es/ciudadania/tramites/asistencia-juridica-gratuita>.

35 Spanish Parliament, Spanish Constitution, Title VI, The Judiciary (*Título VI, Del Poder Judicial*), accessed 28 November 2024, <https://app.congreso.es/consti/constitucion/indice/titulos/articulos.jsp?ini=117&fin=127&tipo=2>.

36 Abogacía Española, *XVIII Report of the Free Legal Aid Observatory (XVIII Informe del Observatorio de Justicia Gratuita)*, accessed 28 November 2024, <https://www.abogacia.es/publicaciones/abogacia-en-datos/observatorio-de-justicia-gratuita/xviii-informe-del-observatorio-de-justicia-gratuita/>.

inequalities in access to justice and violating the right to effective judicial protection.³⁷

The Council of Europe has urged Spain to ensure that judicial proceedings can be conducted in the co-official languages at the request of one of the parties, whether in criminal, civil or administrative proceedings.³⁸ In practice, however, the use of these languages in the judiciary has been hampered by a lack of human resources.

In one case, the United Nations condemned the Spanish state for violating access to justice of a person with intellectual disabilities, who was sentenced to 25 years in prison.³⁹

The main obstacle remains the lack of a robust system of collective redress in Europe that allows citizens to organise themselves without relying exclusively on consumer organisations.

This restrictive model limits access to justice, perpetuates the overburdening of existing organisations and deprives affected people of agile and effective solutions.⁴⁰ Furthermore, the European Parliament and Council Directive on representative actions for the protection of the collective interests of consumers, which should be transposed in 2022 and come into force in 2023, has not yet been transposed in Spain.⁴¹

In Spain, strategic lawsuits against public participation (SLAPPs) target civil society organisations and journalists. The European Union's Anti-SLAPP Directive provides an opportunity to create legal protection at the national level.

37 Spain, Law No. 10/2012 of 20 November regulating certain fees in the field of the Administration of Justice and the National Institute of Toxicology and Forensic Sciences (*Ley 10/2012, de 20 de noviembre, por la que se regulan determinadas tasas en el ámbito de la Administración de Justicia y del Instituto Nacional de Toxicología y Ciencias Forenses*), BOE-A-2012-14301, accessed 28 November 2024, <https://www.boe.es/buscar/act.php?id=BOE-A-2012-14301>.

38 Council of Europe, Secretariat of the European Charter for Regional or Minority Languages, *The European Charter for Regional or Minority Languages: Evaluation Mechanism and Process*, MIN-LANG(2024)17, published on 24 September 2024, <https://www.coe.int/en/web/european-charter-regional-or-minority-languages>.

39 Committee on the Rights of Persons with Disabilities, *Views adopted by the Committee under article 5 of the Optional Protocol, concerning communication No. 69/2019*, adopted on 29 August 2024, <https://www.plenainclusion.org/wp-content/uploads/2024/09/CRPD-C-31-D-69-2019-AUV.pdf>.

40 Xnet, *Danger to Consumer Rights in the EU (Peligro para los derechos de los consumidores en la UE)*, Xnet - Internet freedoms & digital rights, 9 January 2020, <https://xnet-x.net/es/xnet-advierte-peligro-para-derechos-consumidores-si-ue-impide-accion-colectiva>.

41 Xnet, *Registramos en el Congreso una proposición de ley para que se eliminen las trabas a las demandas colectivas y faciliten las acumuladas*, Xnet - Internet, derechos y democracia en la era digital, 20 March 2018, <https://xnet-x.net/es/ley-demandas-colectivas-acumuladas/>.

Featured cases

Luis Ferreirim

The case against Luis Ferreirim, Livestock Director of Greenpeace Spain, relates to complaints about the environmental impact of macro-farms (large-scale livestock farms). Greenpeace has documented environmental pollution, including the discharge of nitrate-rich manure, in projects such as the Odieta Valley in Caparroso (Navarre). These practices are causing serious soil and water pollution problems and are in breach of European directives on nitrates and water quality. Valle de Odieta, the company responsible for the macro-farms in question, filed a lawsuit against Ferreirim in 2021, claiming damages resulting from Greenpeace campaigns such as the collection of signatures and public events against these facilities.

The case is still pending. The company accuses Ferreirim of making allegedly defamatory statements that would affect its honour and reputation, mainly in relation to criticism of spills, animal abuse and other irregularities at

its macro farm in Caparroso. Ferreirim, for his part, defends that his statements are based on official documents and sanction files from the Navarrese authorities.^{42,43}

Jesús Rodríguez Sellés

Catalan journalist Jesús Rodríguez Sellés, known for his work in *The Direct*, is facing a terrorism investigation in Spain. The investigation, linked to his alleged involvement in organising the democratic protests of October 2019, has raised concerns among international press freedom organisations.

Rodríguez Sellés, who moved to Switzerland citing a lack of guarantees to practice his profession and the risk of arbitrary arrest, was declared an official suspect in 2023 after a four-year investigation. Various organisations, such as the International Press Institute (IPI) and the European Federation of Journalists (EFJ), have pointed out that the use of anti-terrorism legislation to criminalise political dissent and journalism poses a risk to freedom of expression and the press in Spain.^{44,45}

42 Greenpeace, *Valle de Odieta S.C.L. Files a Lawsuit Against the Head of Livestock at Greenpeace (Valle de Odieta S.C.L. interpone una demanda contra el responsable de ganadería de Greenpeace)*, Greenpeace España, accessed 2 December 2024, <https://es.greenpeace.org/es/sala-de-prensa/comunicados/valle-de-odieta-s-c-l-interpone-una-demanda-contra-el-responsable-de-ganaderia-de-greenpeace/>.

43 Greenpeace International, *The Spanish Factory Farming Industry Is Trying to Silence Us*, 1 November 2024, <https://www.greenpeace.org/international/story/54303/the-spanish-factory-farming-industry-is-trying-to-silence-us/>.

44 IPI-Admin, *Catalan Journalist Investigated for Terrorism Ahead of Elections*, *IPI.Media (blog)*, 30 April 2024, <https://ipi.media/terrorism-investigation-catalonia-journalist/>.

45 FeSP - Federación de Sindicatos de Periodistas, *European Organizations Call for Review of Terrorism Charges Against Journalist in the 'Tsunami Democrático' Case (Organizaciones europeas piden revisar la acusación de terrorismo contra un periodista en el caso de 'Tsunami Democrático')*, 15 May 2024, <https://fesperiodistas.org/organizaciones-europeas-piden-revisar-la-acusacion-de-terrorismo-contra-un-periodista-en-el-caso-de-tsunami-democratico/>.

Spanish authorities should take on the following recommendations to strengthen the rule of law and fundamental rights protections in this area:

- Implement the EU Anti-SLAPP Directive at the national level and adopt national legislation to protect organised civil society and journalists from abusive claims that restrict freedom of expression.⁴⁶
- Review the use of anti-terrorism legislation to ensure that these laws are not used to criminalise political dissent.
- Strengthen judicial protection mechanisms by providing specific training to judges and prosecutors on the impact of SLAPPs and the importance of ensuring a proper balance between fundamental rights and legal claims.

Resources of the judiciary (human/financial/material)

According to the 2022 report of the European Commission for the Efficiency of Justice (CEPEJ), which assesses the judicial systems of 44 European countries using data from 2020, the average length of court proceedings varies considerably between Member States. In

Spain, the times are higher than the European average in several areas. For example, civil and commercial cases in the Supreme Court take an average of 888 days, compared to the European average of 172 days. Furthermore, the report highlights that although Spain invests more in the judiciary than the European average (0.37% of GDP compared to 0.30%), it has fewer judges (11.24 per 100,000 inhabitants compared to 17.6) and tax officials (5.37 compared to 11.10).⁴⁷ These data suggest that although Spain devotes a significant proportion of its GDP to the judicial system, its efficiency in terms of the duration of proceedings is lower than that of other European countries.

In a positive development, the Organic Law on the Efficiency of the Public Judiciary has recently been approved, which aims to modernise and optimise the judicial structure. The proposed reform of the Spanish justice system focuses on three key pillars: restructuring the judicial organisation with the creation of Tribunals of Instance and Justice Offices in Municipalities, promoting alternative dispute resolution mechanisms (ADR) to reduce court overload, and enhancing consumer and user rights protection through streamlined collective action procedures and digital platforms. However, this law does not address the need to

46 Fundación Española de Abogados Cristianos, *Wikipedia, The Free Encyclopedia (Wikipedia, la enciclopedia libre)*, last modified 31 October 2024, accessed 2 December 2024, https://es.wikipedia.org/w/index.php?title=Fundaci%C3%B3n_Espa%C3%B1ola_de_Abogados_Cristianos&oldid=163329796#Lista_de_causas.

47 Comisión Europea para la Eficacia de la Justicia (CEPEJ), *European judicial systems CEPEJ Evaluation Report , report2022*: <https://rm.coe.int/cepej-report-2020-22-e-web/1680a86279>.

increase human and financial resources, which limits its practical impact.⁴⁸

Training of justice professionals (including judges, prosecutors, lawyers, court staff)

In Spain, the continuous training of judges and prosecutors has been controversial due to the involvement of private entities in its financing, which has led to systemic conflicts of interest.

The following cases were again the subject of debate in 2024:

Case 1: Financing of the SGAE

In 2007, it was reported that the General Society of Writers and Editors (SGAE) was financing courses and conferences for members of the judiciary. This practice provoked criticism from associations that questioned the impartiality of judges who receive training sponsored by entities with a vested interest in copyright litigation.⁴⁹

Case 2: Trips to Cartagena de Indias

In 2009, a taped conversation between then Public Prosecutor Dolores Delgado and Superintendent José Manuel Villarejo mentioned that Spanish judges and prosecutors had participated in trips to Cartagena de Indias (Colombia) where they allegedly had inappropriate encounters with minors. These revelations caused a media scandal and raised questions about the ethical behaviour of those involved.⁵⁰

It is recommended that private funding of judicial training courses be prohibited and that strict controls be put in place to prevent conflicts of interest and ensure transparency in the organisation of judicial training.⁵¹

48 Ministry of Justice (Spain), *Organic Law on the Efficiency of Public Justice Service (Ley Orgánica de Eficiencia del Servicio Público de Justicia)*, BOE, 2023, available at: <https://www.mjusticia.gob.es/es/institucional/gabinete-comunicacion/noticias-ministerio/aplo-judicial>.

49 Ramón Muñoz, *Two Associations Denounce That SGAE Finances the Judiciary (Dos asociaciones denuncian que la SGAE financia al poder judicial)*, *El País*, 17 December 2007, sec. Cultura, https://elpais.com/diario/2007/12/17/cultura/1197846003_850215.html.

50 Javier Suárez, *Delgado Told Villarejo in 2009 That Spanish Judges and Prosecutors Met with Underage Girls During a Trip to Colombia (Delgado contó a Villarejo en 2009 que jueces y fiscales españoles se citaron con menores de edad durante un viaje a Colombia)*, *Moncloa.com*, 26 September 2018, <https://www.moncloa.com/2018/09/26/delgado-jueces-fiscales-menores-1398/>.

51 European Commission, *Ensuring Justice in the EU — A European Judicial Training Strategy for 2021-2024*, COM(2020) 713 final, 2 December 2020, accessed 28 November 2024, <https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=LEGISSUM%3A4578250>

Digitalisation (e.g. use of digital technology, particularly electronic communication tools, within the justice system and with court users, including resilience of justice systems in COVID-19 pandemic)

The implementation of systems such as LexNET (created in 2004 and mandatory since 2016), designed to electronically manage communications in the Spanish judicial system, reflects the challenges and shortcomings of public digitisation in Spain. The main problems include:

- **Poor usability and sovereignty:** LexNET is an expensive and inefficient proprietary software that compromises both functionality and democratic principles. This closed system, which cannot be audited in a distributed manner, has generated numerous technical and security problems that make it a poor tool for judicial communication.^{52,53} Under the exclusive control of the Ministry of Justice and not the General Council of the Judiciary, it seriously violates the separation of powers and inappropriately centralises the management of critical information.⁵⁴ The lack

of transparency and flexibility in its design reinforces its opaque nature and demonstrates how poor technological management can undermine fundamental rights and trust in the justice system.

- **Security flaws:** Serious vulnerabilities were identified in 2017, allowing unauthorised access to sensitive judicial documents and compromising the confidentiality and privacy of users.
- **Frequent system crashes:** LexNET service interruptions are a recurring problem, affecting the efficiency of judicial proceedings and causing significant delays.
- **Lack of adequate training:** Many members of the judiciary have not received the necessary training to use digital systems such as LexNET effectively, which limits their uptake and increases resistance to change.

On a positive note, the digitisation of the judiciary has led to initial progress in case management and internal communication. However, persistent problems highlight the need for structural and procedural reform, as well as

52 Manuel Ángel Méndez, *The Great 'LexNet' IT Disaster in Justice That Has Cost More Than 7 Million (La gran 'chupaza' informática de LexNet en Justicia que ha costado más de 7 millones)*, *El Confidencial*, 28 July 2017, https://www.elconfidencial.com/tecnologia/2017-07-28/lexnet-justicia-informatica-ciberseguridad-rafael-catala_1421916/.

53 Manuel Ángel Méndez, *A Failure in the Justice Telematic System Allowed Access to All Open Cases (Un fallo en el sistema telemático de Justicia permitió acceder a todos los casos abiertos)*, *El Confidencial*, 27 July 2017, https://www.elconfidencial.com/tecnologia/2017-07-27/lexnet-justicia-sistema-telematico_1421771/.

54 Patricia Esteban, *Two Lawyers Report LexNet to the European Commission (Dos abogados denuncian LexNet ante la Comisión Europea)*, *Noticias Jurídicas*, accessed 28 November 2024, <https://noticias.juridicas.com/actualidad/noticias/11127-dos-abogados-denuncian-lexnet-ante-la-comision-europea/>.

greater investment in government technology and professional training.⁵⁵

Additional improvement could be realised by implementing the following recommendations:

- **Ensure digital sovereignty:** Adopt free software and open standards that allow distributed auditing of systems and ensure their transparency, reliability and usability by professionals and citizens.⁵⁶
- **Invest in training:** Implement mandatory and updated training programmes on digital systems for all justice professionals.⁵⁷

Fairness and efficiency of the justice system

Length of proceedings

Legal proceedings in Spain tend to be excessively long, leading to frustration and mistrust of the system. In Cádiz, for example, some trials are scheduled to take place in 2029, while urgent cases, such as fast-track trials for gender

violence or disability cases, face unacceptable delays. This situation reflects structural problems such as overburdened courts and staff shortages.

There are also significant delays in the execution of sentences, affecting both victims and public confidence in the justice system. A notable example in 2024 is the case of the documentary *How to Hunt a Monster*, where a paedophile sentenced to 23 years in prison remained free, meeting his victims regularly, while his sentence remained unexecuted. This case reveals a serious systemic failure in the administration of justice and highlights the need for urgent solutions.⁵⁸

One positive development is the adoption of Organic Law on the Efficiency of the Judiciary; see the section on judicial resources (human/financial/material) for further discussion.

55 Bartolomé Procuradores, *LexNet: Improvements in Its Development for an Efficient Digital Justice (LexNET: mejoras en su desarrollo para una eficiente justicia digital)*, Bartolomé Procuradores (blog), 8 December 2017, <https://bartolome-procuradores.com/blog/lexnet-mejoras-eficiente-justicia-digital/>.

56 Simona Levi et al., *Proposal for a Sovereign and Democratic Digitalisation of Europe: Reflection Paper*, Publications Office of the European Union, 2022, <https://data.europa.eu/doi/10.2861/671958>.

57 Javier Campillo, *Digital Efficiency in the Administration of Justice (Eficiencia digital en la Administración de Justicia)*, Auris Advocats, 3 January 2024, <https://aurisadvocats.com/eficiencia-digital-administracion-justicia/>.

58 Miguel Triviño Dorta and Irene Irene, 'How to Catch a Monster' or Why the Judicial System Fails Those Who Need It Most ('Cómo cazar a un monstruo' o por qué el sistema judicial falla a quienes más lo necesitan), *El Independiente*, 20 September 2024, <https://www.elindependiente.com/espana/tribunales/2024/09/21/como-cazar-a-un-monstruo-o-como-el-sistema-judicial-falla-a-quienes-mas-lo-necesitan/>.

Respect for fair trial standards including in the context of pre-trial detention

Spain's Audiencia Nacional is a unique court in the Spanish judicial system, with national powers and specialised in crimes of major importance such as terrorism, drug trafficking, corruption and economic crimes. This institution has no direct equivalent in other European countries, which makes it unique in the European judicial landscape. For instance, in France, serious crimes are tried by ordinary courts, such as the Courts of Grand Instance or the Courts of Appeal, without the existence of an institution comparable to the National Court. Germany has specialised courts for various matters, but no body with centralised and national jurisdiction such as the National Court. Italy has specialised courts but no court with the characteristics and scope of jurisdiction of the National Court.

The Audiencia Nacional was created in 1977 after the dissolution of the Court of Public Order, an institution of the Franco dictatorship.^{59,60} Its creation responded to the need to deal with complex and highly significant crimes, particularly those related to ETA terrorism. Over time, its jurisdiction has been extended to include cases of corruption, economic crimes and international affairs.⁶¹

This model has sparked debate, as its centralised and specialised nature is considered an “anomaly” compared to the judicial systems of other European countries.⁶² Some jurists argue that its existence can lead to duplication and conflicts of jurisdiction with other courts, and question its compatibility with the principles of decentralisation and separation of powers.⁶³

The ECtHR has condemned Spain on several occasions for failing to adequately investigate

59 Francisco Javier Díaz González, *Los delitos de terrorismo y la creación de la Audiencia Nacional (1977-1978)*, in *La transición a la democracia en España: Actas de las VI Jornadas de Castilla-La Mancha sobre Investigación en Archivos*, Guadalajara, 4-7 de noviembre 2003, Vol. 2 (COMUNICACIONES: CD-Rom), ISBN 84-931658-9-1, p. 22, Asociación de Amigos del Archivo Histórico Provincial de Castilla La Mancha, 2004, <https://dialnet.unirioja.es/servlet/articulo?codigo=3410467>.

60 Consejo General del Poder Judicial (CGPJ), *History of the National Court (Historia de la Audiencia Nacional)*, accessed 28 November 2024, <https://www.poderjudicial.es/cgpj/es/Poder-Judicial/Audiencia-Nacional/Informacion-institucional/Historia-de-la-AN/>.

61 Amnistía Internacional, *Human Rights in Spain (Los derechos humanos en España)*, accessed 28 November 2024, <https://www.amnesty.org/es/location/europe-and-central-asia/western-central-and-south-eastern-europe/spain/report-spain/>.

62 Martina Alcobendas, *The Exception of the National Court: A Court Without Equivalent in Europe (La excepción de la Audiencia Nacional: un tribunal sin equivalente en Europa)*, *Ara en Castellano*, 2 February 2024, https://es.ara.cat/politica/excepcion-audiencia-nacional-tribunal-equivalente-europa_1_4927849.html.

63 José María Asencio Mellado, *La Audiencia Nacional: una visión crítica*, *Documentos de trabajo (Laboratorio de alternativas)*, no. 29 (2003): 1, <https://dialnet.unirioja.es/servlet/articulo?codigo=8573057>.

allegations of torture in relation to the actions of the Audiencia Nacional.

We urge national authorities to consider the following recommendations regarding the Audiencia Nacional:

- **Redistribute powers:** Study the possibility of abolishing the National Court and redistributing its powers between specialised and ordinary courts, following the model of other European countries.
- **Strengthen international monitoring mechanisms:** Effectively implement the recommendations of bodies such as the

Council of Europe and the European Court of Human Rights, particularly with regard to respect for fundamental rights and judicial efficiency.

Other

The Court of Justice of the European Union (CJEU) has ruled that the period for claiming mortgage charges starts when the consumer becomes aware of the abusive nature of the clause. This ruling extends the period of time available to consumers to make complaints, thereby strengthening their protection against abusive clauses.⁶⁴

64 Supreme Court (Spain, Civil Chamber, Full Court), *Judgment No. 857/2024 of 14 June 2024 (Sentencia núm. 857/2024, de 14 de junio de 2024)*, ECLI:ES:TS:2024:3076, Appeal No. 1799/2020, Declaration on the *dies a quo* for the beginning of the limitation period for the restitution of undue mortgage expenses (*Declaración sobre el dies a quo para el inicio del plazo de prescripción de la acción de restitución de gastos hipotecarios indebidos*), published on the official website of the General Council of the Judiciary (CGPJ), <https://www.poderjudicial.es/search/openDocument/fd5fddc5d46df4c4a0a8778d75e36f0d>.

ANTI-CORRUPTION FRAMEWORK

Key recommendations

- *Enforce the division of public procurement into lots: Public procurement should be divided into independent lots to facilitate SME participation and promote competition. Each lot must be tailored to the specific economic and technical needs of smaller players, reducing the dominance of large suppliers and increasing the fairness of public tenders. This will improve market access and reduce systemic barriers for smaller companies.*
- *Giving priority to qualitative criteria in procurement: Move away from awarding contracts solely on the basis of the lowest price and instead prioritise social, environmental and innovation criteria in procurement processes. This approach promotes sustainability, prevents artificially low price strategies that jeopardise quality, and is in line with the EU's broader goals of green and inclusive growth.*
- *Repeal Law 15/1997⁶⁵ and strengthen public health oversight: Initiate the legislative process to repeal Law 15/1997 and revise Article 90⁶⁶ of the General Health Law to remove the legal framework that allows privatisation of public health services.⁶⁷ At the same time, implement robust control and audit mechanisms through the Ministry of Health and the National Transparency Agency to ensure transparent allocation of health resources, thereby improving public confidence and reducing the risk of corruption.*

65 Cortes Generales, Ley 15/1997, de 25 de abril, sobre habilitación de nuevas formas de gestión del Sistema Nacional de Salud, published in Boletín Oficial del Estado (BOE-A-1997-9021), accessed 28 November 2024, <https://www.boe.es/eli/es/l/1997/04/25/15>.

66 Cortes Generales, Ley 14/1986, de 25 de abril, General de Sanidad, published in Boletín Oficial del Estado (BOE-A-1986-10499), accessed 28 November 2024, <https://www.boe.es/buscar/act.php?id=BOE-A-1986-10499>.

67 CAS Madrid, Never Again Preventable Deaths! (¡¡Nunca más muertes evitables!!), report submitted to the Commission for Social and Economic Reconstruction (Informe presentado a la Comisión para la Reconstrucción Social y Económica), 2020, https://www.congreso.es/docu/comisiones/reconstruccion/documentacion_participacion_ciudadana/20200614_C11.pdf

Framework to prevent corruption

Cases of corruption by political parties in Spain are so numerous that they monopolise political news. This year's novelty is the lifting of the veto on reporting cases of corruption linked to the former royal family, a taboo subject for decades.^{68,69} Beyond the sums stolen, this corruption has a negative impact on the allocation of resources, which affects all public activity.

Integrity framework including incompatibility rules (e.g.: revolving doors)

Although rules exist to address issues such as 'revolving doors', their application is uneven.⁷⁰ High-profile cases have shown individuals

moving between public positions and the private sector without adequate cooling-off periods, undermining public confidence.⁷¹

General transparency of public decision-making (including public access to information such as lobbying, asset disclosure rules and transparency of political party financing)

The Transparency Law aims to improve access to information, but its practical application is weak.⁷² Lobbying is not fully regulated and asset declaration rules for public officials need to be strengthened to ensure accountability.⁷³ Spain lacks a unified framework to regulate lobbying at the national level, although there

68 Fernando Ramos Fernández, *The Journalistic 'Taboo' of the Monarchy in Spain. The Royal Crisis and the Situational Crisis (El 'tabú' periodístico de la monarquía en España. La crisis real y la crisis coyuntural)*, *Revista Latina de Comunicación Social*, no. 68 (18 March 2013): 217–247, <https://doi.org/10.4185/RLCS-2013-975>.

69 Pedro Pérez Bozal, *Streaming Platforms Break the Taboo About the Spanish Monarchy... from the Past (Las plataformas rompen el tabú sobre la monarquía española... del pasado)*, *Merca2.es*, 5 June 2023, <https://www.merca2.es/2023/06/05/plataformas-tabu-monarquia-1327673/>.

70 Noelia Acedo, *Close the Revolving Door and Regulate 'Lobbies': OECD's Recommendations for Spain to Fight Corruption (Cerrar puertas giratorias y regular 'lobbies', los deberes que la OCDE pone a España para combatir la corrupción)*, *infoLibre*, 19 August 2024, https://www.infolibre.es/economia/falta-enfoque-estrategico-global-control-lobbyismo-puertas-giratorias-sombreas-lucha-corrupcion_1_1864513.html.

71 Natalia Junquera and Quino Petit, *Key Points: The Government's Regeneration Plan Measures and What Has Been Left Out (Claves | Las medidas del plan de regeneración del Gobierno y todo lo que se queda fuera)*, *El País*, 17 September 2024, <https://elpais.com/espana/2024-09-17/claves-las-medidas-del-plan-de-regeneracion-del-gobierno-y-todo-lo-que-se-queda-fuera.html>.

72 Confilegal Redacción, *Review of the 10 Years of the Transparency Law: A Law Without Sanctioning Power is a Problem for Democratic Quality (Balance de los 10 años de la Ley de Transparencia: una ley que no tiene potestad sancionadora es un problema de calidad democrática)*, *Confilegal*, 20 December 2023, <https://confilegal.com/20231220-balance-de-los-10-anos-de-la-ley-de-transparencia-una-ley-que-no-tiene-potestad-sancionadora-es-un-problema-de-calidad-democratica/>.

73 Ángel Munárriz, *The Black Hole of Uncontrolled Lobbying and Lack of Transparency in Spain (El agujero de descontrol y opacidad del 'lobby' en España)*, *El País*, 22 September 2024, <https://elpais.com/espana/2024-09-22/el-agujero-de-descontrol-y-opacidad-del-lobby-en-espana.html>.

have been regional advances, such as registers in Catalonia and Valencia, and tools such as the Transparency Law (2013) and the Code of Conduct for High Officials (2022), which remain insufficient due to weak implementation and lack of enforcement mechanisms. The European Commission has recommended the creation of a mandatory national register to ensure transparency, identify who influences public decisions and prevent corruption, as seen in countries such as France and Ireland. Political decision-making continues to take place in opaque offices and exclusive environments.⁷⁴

Rules on preventing conflicts of interest in the public sector

The revolving door problem is serious in Spain. The Office for Conflicts of Interest lacks the independence and sanctioning power to effectively monitor and address violations.^{75,76,77}

Measures in place to ensure whistleblower protection and encourage reporting of corruption

The implementation of the European directive in Spain has been extremely poor. It only covers crimes and serious offences, leaving out acts that undermine democracy on a daily basis.⁷⁸ Moreover:

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- 74 INAP, *Causes for the Rejection of Access to Information Requests; Particularly, the Doctrine of Independent Transparency Authorities* (*Las causas de inadmisión de las solicitudes de acceso a la información; en particular, la doctrina de las autoridades independientes de transparencia*), accessed 28 November 2024, <https://laadministracionaldia.inap.es/noticia.asp?id=1507961>.
- 75 Ignacio S. Calleja, *The Office of Conflict of Interest That Will Examine Sánchez: 10 Sanctions Against Senior Officials in a Decade* (*La Oficina de Conflictos de Intereses que examinará a Sánchez: 10 sanciones contra altos cargos en una década*), *El Confidencial*, 14 March 2024, https://www.elconfidencial.com/espana/2024-03-14/la-oficina-de-conflictos-de-intereses-que-examinara-a-sanchez-10-sanciones-contra-altos-cargos-en-una-decada_3848235/.
- 76 Natalia Junquera, *Recipes for Democratic Regeneration: Regulating Conflicts of Interest and Controlling Press Financing* (*Recetas para la regeneración democrática: regular los conflictos de interés y controlar la financiación de la prensa*), *El País*, 16 July 2024, <https://elpais.com/espana/2024-07-16/carrera-contra-la-desconfianza-en-las-instituciones-del-control-de-la-financiacion-de-la-prensa-a-los-asesores-y-los-conflictos-de-interes.html>.
- 77 Manuel Viejo, *The Endless Debate on Revolving Doors: A Common Law and Numerous Scenarios* (*El eterno debate de las puertas giratorias: una ley común y multitud de escenarios*), *El País*, 6 April 2024, <https://elpais.com/espana/2024-04-06/el-eterno-debate-de-las-puertas-giratorias-una-ley-comun-y-multitud-de-escenarios.html>.
- 78 European Commission. Proposal for a Directive of the European Parliament and of the Council on combating corruption, replacing Council Framework Decision 2003/568/JHA and the Convention on the fight against corruption involving officials of the European Communities or officials of Member States of the European Union, and amending Directive (EU) 2017/1371 of the European Parliament and of the Council. 2023. Retrieved from <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX%3A52023PC0234>

- It discriminates against anonymous complaints, ignoring that platforms such as Globaleaks, installed by Xnet in more than 10 institutions, demonstrate the effectiveness of technical means that do not require identification.
- It abandons organisations that help whistleblowers to their fate, without eliminating the criminal responsibility linked to the gathering of information, except in the case of crimes against the integrity of the person. This means that whistleblowers in cases such as the Black Cards or the Panama Papers would not be protected.
- The body responsible for protecting whistleblowers in Spain is the Independent Authority for the Protection of Whistleblowers (AAI), created by Law 2/2023, which transposed the European Directive on the Protection of Whistleblowers (Directive 2019/1937). However, its independence and effectiveness have been questioned by various organisations and experts.^{79,80,81}

Steps to address problems in this area should include extending the scope of whistleblower protection to cover non-criminal acts that undermine democracy and support anonymous reporting platforms.

List the sectors with high-risks of corruption in your country and list the relevant measures taken/envisaged for preventing corruption and conflicts of interest in these sectors. (e.g. public procurement, health-care, other)

In terms of public procurement, more than 70% of public contracts do not comply with current legislation due to issues like the fragmentation of contracts, unjustified direct contracts, lack of trans-parency, and unjustified contract changes. This sector is particularly vulnerable to corruption. Although the Public Procurement Law contains provisions on transparency and competition, there are gaps in its implementation, leading to irregularities.

The privatisation of health services raises concerns about resource allocation and conflicts of

79 Sierra-Rodríguez, J. (2022). La autoridad independiente de protección del informante en la Ley 2/2023. *Revista española de control externo*, 24(72), 78-103. Universidad Nacional de Educación a Distancia. <https://dialnet.unirioja.es/servlet/articulo?codigo=9099099>

80 Sánchez, L. (s.f.). Es fundamental garantizar la independencia de la Autoridad de Protección al Informante para que su labor sea efectiva, afirma la World Compliance Association. <https://www.economistjurist.es/actualidad-juridica/legislacion/es-fundamental-garantizar-la-independencia-de-la-autoridad-de-proteccion-al-informante-para-que-su-labor-sea-efectiva-afirma-la-world-compliance-association/>

81 Xnet, *We Ask the Senate to Amend the Law in Defense of Whistleblowers (Pedimos al Senado que enmiende la ley en defensa de los informantes)*, Xnet - Internet, derechos y democracia en la era digital, 6 February 2023, <https://xnet-x.net/es/pedimos-senado-enmiende-ley-defensa-informantes-alertadores/>.

interest. Strengthening oversight mechanisms is essential to mitigate these risks.⁸²

Steps to improve the situation should include:

- **Transparency in procurement:** Require the publication of contract information in open and reusable formats to enable effective public scrutiny.
- **Simplify solvency requirements:** Allow SMEs to use external resources or less

restrictive criteria to demonstrate capacity, particularly for smaller contracts.

Any other relevant measures to prevent corruption in public and private sector

Encourage open source software: Promote free and open source software in digital contracts to avoid vendor lock-in and encourage collaborative innovation.

82 Simona Levi et al., *Proposal for a Sovereign and Democratic Digitalisation of Europe: Reflection Paper*, Publications Office of the European Union, 2022, <https://data.europa.eu/doi/10.2861/671958>.

MEDIA ENVIRONMENT AND MEDIA FREEDOM

Key recommendations

- *Regulate major media and institutional broadcasters under business-like frameworks, compelling them to verify their content and display transparency labels. This ensures clear distinction between profit-driven communication and genuine information.*
- *Lower the threshold to 50,000 followers for parties, media outlets, and influencers, requiring them to disclose all communication-related income and expenses.⁸³ This captures most relevant cases and clarifies financing sources.*
- *Impose sanctions proportional to the profits generated from disinformation, mandating explicit identification of bots and automated content. Reinforce the right to rectification by guaranteeing it the same visibility as the original material.⁸⁴*

Media and telecommunications authorities and bodies

Independence, enforcement powers and adequacy of resources of media and telecommunications authorities and bodies

Although the National Commission for Markets and Competition (CNMC) is mainly

concerned with the audiovisual and telecommunications sectors, it plays an important role in monitoring mergers and practices that may limit press plurality.⁸⁵ In the context of the Digital Services Regulation (DSA), the CNMC has been designated as the coordinator of digital services, but its dedicated drive is not yet operational.⁸⁶

83 Cortes Generales, Real Decreto 444/2024, de 30 de abril, por el que se regulan los requisitos a efectos de ser considerado usuario de especial relevancia de los servicios de intercambio de vídeos a través de plataforma, en desarrollo del artículo 94 de la Ley 13/2022, de 7 de julio, General de Comunicación Audiovisual, Boletín Oficial del Estado (BOE-A-2024-8716), accessed 28 November 2024, <https://www.boe.es/buscar/act.php?id=BOE-A-2024-8716>.

84 Xnet, #FakeYou: An Activist's Guide to Defeating Disinformation, Xnet - Internet Freedoms & Digital Rights, 23 July 2024, <https://xnet-x.net/en/fakeyou-disinformation-free-download/>.

85 Comisión Nacional del Mercado de Valores (CNMV), *Funcions (Funciones)*, accessed 29 November 2024, <https://www.cnmv.es/portal/quees/funciones-cnmv.aspx?lang=es>.

86 Alberto R. Aguiar, *The Reform of the CNMC Remains Pending Seven Months After the European Law Requiring It Came into Force (La reforma de la CNMC sigue pendiente siete meses después de que entrara en vigor la ley europea que la exige)*, *Business Insider España*, 27 September 2024, <https://www.businessinsider.es/reforma-cnmc-sigue-pendiente-siete-meses-despues-entrara-vigor-ley-europea-exige-1407248>.

In 2021, the President of the CNMC, Cani Fernández, highlighted the need for legislative reforms to strengthen the independence of the body and address the limitations of legal, human and budgetary resources.⁸⁷ This inadequate framework poses challenges to the CNMC's effective contribution to a pluralistic and free media environment.

Conditions and procedures for the appointment and dismissal of the head / members of the collegiate body of media and telecommunication authorities and bodies

The appointment and dismissal procedures for the heads of media and telecommunications authorities in Spain have been the subject of constant scrutiny. Critics argue that political influence can compromise the impartiality of these processes,⁸⁸ thus compromising the independence and objectivity of regulatory bodies.⁸⁹

This perception weakens public confidence in the role of these authorities as guarantors of a pluralistic media environment free from undue interference

Other

Although important announcements have been made regarding the implementation of the European Media Freedom Law in Spain, there have been no significant changes in the regulatory environment for media and telecommunications.^{90,91}

Pluralism and concentration

Levels of market concentration

The Spanish media landscape is characterised by a high concentration of ownership in a small number of conglomerates, which

87 Miguel Ángel Noceda, *The President of the CNMC Demands Legal Changes to Grant Greater Independence to the Institution (La presidenta de la CNMC exige cambios en la ley para dar mayor independencia al organismo)*, *El País*, 3 February 2021, <https://elpais.com/economia/2021-02-03/la-presidenta-de-la-cnmc-exige-cambios-en-la-ley-para-dar-mayor-independencia-al-organismo.html>.

88 Petit, Quino. *La designación en el Senado de cuatro consejeros propuestos por el PP culmina la renovación de RTVE*. *El País*, November 21, 2024. <https://elpais.com/comunicacion/2024-11-21/la-designacion-en-el-senado-de-cuatro-consejeros-propuestos-por-el-pp-culmina-la-renovacion-de-rtve.html>.

89 Centre for Media Pluralism and Freedom. *Spain*. European University Institute. Accessed November 29, 2024. <https://cmpf.eui.eu/media-pluralism-monitor/mpm-2016-results/spain/>.

90 Emilio Ordiz, *'Media Freedom Act': This Is the Regulation Sánchez Uses to Support His 'Democratic Regeneration Plan' ('Media Freedom Act': así es la norma en la que apoya Sánchez su 'plan de regeneración democrática')*, *20minutos*, 18 July 2024, <https://www.20minutos.es/noticia/5532383/0/media-freedom-act-cual-es-norma-que-se-apoya-sanchez-para-su-plan-regeneracion/>.

91 La Moncloa, *The Spanish Presidency of the Council of the European Union Pushes for Agreement on the European Media Freedom Act (EMFA)*, accessed 29 November 2024, https://www.lamoncloa.gob.es/lang/en/gobierno/news/Paginas/2023/20231215_european-media-freedom-act.aspx

negatively affects information plurality and editorial independence. Although there is a wide and seemingly diverse media offering, it is controlled by a limited number of economic actors who dominate both traditional media and digital platforms, television and radio.

Concentration of ownership in the main sectors:

- Written press:

PRISA Group (*El País*): Part of its capital is in the hands of Banco Santander and HSBC.

Vocento Group (*ABC*): Linked to Banco Santander and BBVA.

Editorial Unit Group (*El Mundo*): With nexos with Intesa Sanpaolo.

Planeta Group/Atresmedia (*La Razón, Antena 3, La Sexta*): Related to Banco Sabadell.

Godó Group (*La Vanguardia*): Partially controlled by Caixabank.

- Television and radio:

National television is concentrated in two large groups: Atresmedia and Mediaset Spain, which hold more than 80% of the advertising market share.

In the radio field, PRISA Group (SER Channel) and COPE. They concentrate the majority of the audience, making it difficult for new stations to enter.

- **Digital platforms and social networks:** Although large international corporations such as Meta, Google and Twitter, national media conglomerates also dominate online content, reinforcing their influence in the Spanish digital ecosystem.
- **Content distribution:** Content distribution in Spain is highly concentrated in companies such as Planeta Group, which limits access to different editorial formats and approaches.

Identified problems:

- **Economic dependence:** The debts accumulated during the 2007–2008 financial crisis have meant that most media outlets de facto belong to banks. The loss of traditional revenue has increased the media's dependence on institutional advertising and large corporations, compromising its editorial independence.
- **Multimedia convergence:** The same conglomerates control multiple distribution channels (press, television, radio, digital), reducing the diversity of voices and content.
- **Impact on information plurality:** High concentration leads to homogenisation of information and makes access to alternative narratives difficult. Furthermore, it reinforces political and economic influence on public discourse.

Conclusions and recommendations:

The high concentration of the Spanish media market continues to be an obstacle to information plurality and editorial independence. It is essential:

- Implement specific antitrust regulations for the media sector, which encourage competition and limit ownership concentration.
- Establish mechanisms that guarantee transparency in the relationship between media and large financial groups.
- Promote public policies that support independent media and diversify funding sources.⁹²

Rules governing and safeguarding the pluralistic media market, and their application (including regulating mergers, acquisitions and other ownership changes)

Although Spain has rules to prevent excessive media concentration, their application has been inconsistent. The National Commission for Markets and Competition (CNMC) has intervened in some cases where mergers or acquisitions threatened to reduce competition,⁹³ but

these decisions are usually taken behind closed doors with little public scrutiny.

Rules governing ownership in different segments of the media market, and their application (print, television, radio, online media)

Spain has announced several initiatives to promote transparency in media ownership, such as the creation of a public register detailing the ownership structure of the media and its financing, the annual publication of figures on advertising investment by public administrations and the reform of the law on institutional advertising to introduce criteria of proportionality and non-discrimination, but still faces challenges in terms of the accessibility and clarity of this information. The lack of easily verifiable data on the economic and political links of owners limits the ability of citizens to assess the independence and plurality of the media landscape.

The creation of public consultation tools based on open and structured data would allow citizens to easily and effectively access information on media ownership in different segments (written press, television, radio and digital media).

92 Xnet, *#FakeYou: An Activist's Guide to Defeating Disinformation*, Xnet - Internet Freedoms & Digital Rights, 23 July 2024, <https://xnet-x.net/en/fakeyou-disinformation-free-download/>.

93 Cinco Días, *The CNMC Opens Another Disciplinary Proceeding Against Telefónica for Breaching Commitments in the Purchase of Sogecable (La CNMC abre otro expediente sancionador a Telefónica por incumplir compromisos en la compra de Sogecable)*, Cinco Días, 18 November 2024, <https://cincodias.elpais.com/companias/2024-11-18/la-cnmc-abre-otro-expediente-sancionador-a-telefonica-por-incumplir-compromisos-en-la-compra-de-sogecable.html>.

Fairness and transparency of licencing procedures (including allocation of licences, fines and penalties)

The awarding of audiovisual licences has traditionally been a key moment of interaction between political power and large media groups. Often perceived as a mechanism of political reward or punishment, this process raises concerns about fairness and transparency as well as the possibility of a diverse ecosystem.⁹⁴

It is essential to ensure that licensing procedures are based on clear and objective criteria, with mechanisms that allow for a greater plurality of actors, public oversight and accountability by regulatory bodies.⁹⁵

Transparency and media ownership

The transparent allocation of state advertising (including any rules regulating the matter)

Although there are regulations aimed at preventing the misuse of state advertising budgets, in practice, the allocation lacks transparency

and is influenced by political criteria. Contracts and amounts awarded are rarely subject to public scrutiny, fuelling perceptions of favouritism. As of January 2025, Spain has announced plans to reform its institutional advertising law with the aim of improving transparency, proportionality and non-discrimination in the allocation of state advertising. However, these measures are still in the planning stage and have not yet been fully implemented, so there are no significant updates beyond the announcements made in 2024.

Spanish authorities should implement an obligation for public disclosure of state advertising budgets, linking expenses to content clear and verifiable. They should also introduce a mandatory labelling system to make financial links between the media and public administrations visible, promoting equitable and transparent allocation.⁹⁶

94 INAP, *The Legal Regime of Prior Communication and Licences in the New Law 13/2022, of 7 July, General Audiovisual Communication Law (El régimen jurídico de la comunicación previa y las licencias en la nueva Ley 13/2022, de 7 de julio, General de Comunicación Audiovisual)*, accessed 29 November 2024, <https://laadministracionaldia.inap.es/noticia.asp?id=1514427>.

95 María Pilar Cousido González, *La transparencia en el sector audiovisual: comentarios a la normativa española y comunitaria*, Bosch, 2008, ISBN 8497903692, https://books.google.es/books/about/La_transparencia_en_el_sector_audiovisua.html?id=OK5dQwAACAkJ.

96 Xnet, *#FakeYou: An Activist's Guide to Defeating Disinformation*, Xnet - Internet Freedoms & Digital Rights, 23 July 2024, <https://xnet-x.net/en/fakeyou-disinformation-free-download/>.

Rules governing transparency of media ownership and public availability of media ownership information, and their application

Existing laws in Spain establish certain requirements for transparency in media ownership, but the information available is not always accessible or structured for effective consultation by citizens.

The European Media Freedom Act could bring significant improvements by harmonising European regulations, requiring centralised platforms that make it possible to know the ownership and financing sources of the media. Specific changes in national legislation that fully reflect the principles of European law have not yet been detailed. We recommend authorities to create centralised public databases, with detailed information on the ownership and financing of traditional media and influential digital platforms, and to extend these obligations to digital platforms, ensuring traceability of the flow of income and promoted content.

Other

Precarious employment in key sectors such as journalism and content moderation undermines transparency by creating an environment where temporary or low-paid workers lack the resources and training to apply rigorous ethical standards, the pressure to produce content quickly and cheaply prioritises quantity over quality — making it easier to disseminate unverified information — and the lack of job security discourages reporting opaque practices (algorithmic manipulation, external pressure) for fear of reprisals.^{97,98}

Public service media

Independence of public service media from governmental interference

The independence of public media in Spain, such as RTVE, has been a recurring topic of debate. Although reforms have been implemented, such as the change in the system of elections to the board of directors, concerns remain about the influence of political parties in its management. For decades, there has been a two-party dynamic, with opposition parties demanding independence and then using public media in a partisan way when they come to power.⁹⁹

97 European Commission, *Proposal for a European Media Freedom Act*, 2023, https://ec.europa.eu/commission/press-corner/detail/es/ip_22_5504.

98 European Federation of Journalists, *Concentration of Media Ownership in Europe*, 2023, <https://europeanjournalists.org/wp-content/uploads/2019/03/manifestoEN-3.pdf>.

99 Cortes Generales, Real Decreto-ley 5/2024, de 22 de octubre, por el que se modifica la Ley 17/2006, de 5 de junio, de la radio y la televisión de titularidad estatal, para adoptar medidas urgentes relativas al régimen jurídico aplicable a la Corporación RTVE, Boletín Oficial del Estado núm. 256, 23 October 2024, pp. 135386-135397, https://www.boe.es/diario_boe/txt.php?id=BOE-A-2024-21699.

The situation is even more worrying in some regional public channels, where political influence is more pronounced. In several autonomous communities, the level of degradation in the management of these media has reached extreme levels. A significant example is the case of Televisión de Galicia (TVG) in 2024, where employees denounced political pressure and editorial manipulation that seriously compromised informative pluralism, leading to a strike in protest at the conditions imposed.¹⁰⁰

In order to break this cycle and guarantee independence, it would be essential to establish protocols for the evaluation of citizens, which would make it possible to verify the neutrality and objectivity of the information provided by these means.

Editorial standards (including diversity and non-discrimination)

RTVE and other public media are committed to standards of diversity and non-discrimination, but implementation is uneven. They also have to compete with virulently partisan

private channels. Reports of a lack of editorial pluralism highlight the need to strengthen internal control mechanisms.

One case to highlight is the Supreme Court's decision to annul the dismissal of a TVE script writer for a controversial programme about Princess Leonor on the grounds that his labour rights had been violated. This case highlights the need to strengthen the protection of public media professionals against political and labour pressure.¹⁰¹

State authorities should introduce general quality and non-discrimination obligations in all public and private media, for example during election periods. They should also integrate digital verification tools, inspired by distributed models, to improve the quality and reliability of editorial content.¹⁰²

Financing (including transparency of financing)

Transparency in the use of public funds allocated to the media is essential.¹⁰³ Although

100 Sonia Vizoso, *The Crisis at Televisión de Galicia Leads to the First Indefinite Strike in Its History (La crisis en la Televisión de Galicia desemboca en la primera huelga indefinida de su historia)*, *El País*, 7 October 2024, <https://elpais.com/espana/galicia/2024-10-07/la-crisis-en-la-television-de-galicia-desemboca-en-la-primera-huelga-indefinida-de-su-historia.html>.

101 Tribunal Supremo, Sala de lo Social, *Sentencia núm. 4566/2022, de 7 de noviembre de 2023, procedimiento núm. 286/21, Juzgado de lo Social N° 16 de Madrid*, https://mcusercontent.com/58ab66b7d6bec5b0aab78d1c3/files/56f40c43-d24b-8286-8665-1b0ac5022525/TS_inadmissi%C3%B3n_guionista.pdf?_hsmi=79732547.

102 Xnet, *#FakeYou: An Activist's Guide to Defeating Disinformation*, Xnet - Internet Freedoms & Digital Rights, 23 July 2024, <https://xnet-x.net/en/fakeyou-disinformation-free-download/>.

103 Reporters Without Borders (RSF), *Spain (España)*, 6 July 2023, <https://rsf.org/en/country/spain>.

RTVE publishes annual reports, these do not always allow detailed analysis by citizens.¹⁰⁴ Law 19/2013 of 9 December on transparency, access to public information and good governance establishes transparency obligations for entities that manage public funds, including RTVE. This law obliges them to publish relevant information on the management and use of public funds, such as budgets, contracts and subsidies, on their transparency portals.

Authorities can improve the situation in this area by establishing a financial system that links each expense to specific, measurable objectives, increasing accountability and building public trust.

Online media

Impact on media of online content regulation rules (including content removal obligations, liability rules)

The Digital Services Act has introduced transparency obligations for digital platforms,¹⁰⁵ but these regulations tend to focus on intermediaries, leaving out large producers of

disinformation. It is crucial to extend accountability to those who finance or profit from disinformation, including political parties, institutions and corporations.¹⁰⁶

Public trust in media

According to the Reuters Institute's Digital News Report 2024, trust in news in Spain remains low, with only 33% of respondents regularly trusting it, while 39% express distrust.

In addition, the report indicates that 44% of Spaniards feel overwhelmed by the amount of news, a significant increase compared to the 26% registered in 2019.

These data reflect a growing information fatigue and one disconnection with traditional media, underlining the need to strengthen journalistic quality and guarantee plurality in the media environment to regain public trust.¹⁰⁷

104 RTVE.es, *Transparency - Corporate Economic Information (Transparencia - Información Económica Corporación)*, accessed 29 November 2024, <https://www.rtve.es/corporacion/transparencia/economia/>.

105 European Commission, *EU Digital Services Regulation*, 27 October 2022, https://commission.europa.eu/strategy-and-policy/priorities-2019-2024/europe-fit-digital-age/digital-services-act_es.

106 Xnet, *Digital Services Package (DSA), Xnet's Analysis (Paquete de Servicios Digitales (DSA), el análisis de Xnet)*, Xnet - Internet, Rights and Democracy in the Digital Era, 25 August 2023, <https://xnet-x.net/es/posicion-xnet-dsa-package/>.

107 Rasmus Kleis Nielsen and Richard Fletcher, *Perspectives of the Public on Trust in News*, Reuters Institute for the Study of Journalism, 17 June 2024, accessed 29 November 2024, <https://reutersinstitute.politics.ox.ac.uk/es/digital-news-report/2024/perspectivas-del-publico-sobre-la-confianza-en-las-noticias>.

Safety and protection of journalists and other media actors

Law enforcement capacity to ensure journalists' safety and to investigate attacks on journalists and media activist

Security forces in Spain lack specific training and sufficient resources to deal with threats against journalists. Furthermore, in daily practice, police actions under the protection of the Citizen Security Law (known as the Ley Mordaza, or the 'Gag Law')¹⁰⁸ often constitute an obstacle to the practice of journalism, limiting freedom of information and expression.^{109,110}

We urge Spanish authorities to:

- **Repeal the Gag Law:** Eliminate provisions that restrict journalistic practice and guarantee a legal framework that protects press freedom and the safety of journalists.

- **Improve police action protocols:** Develop clear procedures that prioritise the protection of journalists during sensitive coverage, such as demonstrations or public events.
- **Training and awareness of security forces:** Expand the programs on fundamental rights, freedom of the press and the role of the media in a democracy, strengthening security forces capacity to address threats against journalists.

Confidentiality and protection of journalistic sources (including whistleblower protection)

The protection of sources in Spain has been weakened in recent years and have not adequately evolved to address the complexities introduced by digital technologies.

In the current context, this lack of updating creates significant gaps in the effective protection of sources, exposing them to risks derived

108 CPPA, *What You Should Know About the 'Gag Law' and Other Articles of the Penal Code If You Are a Journalist (Lo que debes saber de la 'Ley Mordaza' y otros artículos del Código Penal si eres periodista)*, *Periodistas de Andalucía* (blog), 19 July 2021, <https://periodistasandalucia.es/lo-que-debes-saber-de-la-ley-mordaza-y-otros-articulos-del-codigo-penal-si-eres-periodista/>.

109 Reporteros Sin Fronteras, *Spain: RSF Welcomes Compliance with European Media Freedom Standards, Urges Prompt Reform of the 'Gag Law' and Will Closely Monitor the Implementation of Government Measures (España: RSF celebra el cumplimiento de la normativa europea de libertad de medios, pide que la reforma de la Ley Mordaza se concrete cuanto antes, y vigilará de cerca cómo se materializan las medidas anunciadas por el Gobierno)*, 17 July 2024, <https://www.rsf-es.org/espaa-rsf-celebra-el-cumplimiento-de-la-normativa-europea-de-libertad-de-medios-pide-que-la-reforma-de-la-ley-mordaza-se-concrete-cuanto-antes-y-vigilara-de-cerca-como-se-materializan-las-medidas/>.

110 Amnistía Internacional, *Gag Laws: Analysis of 9 Years of Restrictions and Freedom of Expression in Spain (Leyes Mordaza: Análisis de 9 años de restricciones y libertad de expresión en España)*, accessed 29 November 2024, <https://www.es.amnesty.org/en-que-estamos/blog/historia/articulo/ley-mordaza/>.

from digital monitoring, mass data collection and threats to online privacy. These vulnerabilities directly affect journalists' ability to ensure the confidentiality of their informants, a key principle for press freedom.¹¹¹

The state should expand the scope of the legal protection of whistleblowers to ensure robust protection of journalistic sources and sanction oversights interested or reckless. Training programs for journalists on the use of technologies such as encryption, anonymous reporting platforms and other systems that reinforce the confidentiality of their sources should also be implemented.

Access to information and public documents

Access to public information in Spain continues to be limited by the limitation of the transparency law and by the inadequate transposition of the General Data Protection Regulation (GDPR), as well as by obsolete regulations such as the Official Secrets Law of 1968. Reforming these laws is essential.^{112,113}

Implementing Article 85 of the GDPR

Article 85 of the GDPR establishes the balance between data protection and freedom of expression and information, requiring Member States to harmonise national legislation with these principles. In Spain, while this article has been referenced in some legal frameworks, its implementation remains incomplete. For example, ensuring that journalistic activities or archiving for public interest purposes do not conflict with data protection laws still presents challenges. It is essential to adapt existing regulations to provide clearer protections for both journalists and individuals whose data may be involved, ensuring that their rights are upheld without undermining the principle of transparency or public access to information.

Amending Administrative Legislation for Better Data Protection

Key Spanish laws, such as Law 39/2015 on administrative procedures, Law 19/2013 on transparency, and Organic Law 3/2018 on data protection, require revisions to better align with GDPR principles. Current administrative processes often collect excessive personal

111 Cristina Pauner Chulvi, *The Protection of Journalistic Sources in the Digital Age and the European Union's Regulatory Push* (*La protección de las fuentes periodísticas en la era digital y el impulso regulatorio de la Unión Europea*), *Teoría y Realidad Constitucional*, no. 54 (2024): 189–216, <https://doi.org/10.5944/trc.54.2024.43312>.

112 Cortes Generales, *Ley 9/1968, de 5 de abril, sobre secretos oficiales*, *Boletín Oficial del Estado*, núm. 84, 6 April 1968, pp. 5143–5144, <https://www.boe.es/buscar/act.php?id=BOE-A-1968-444>.

113 Marisol Hernández, *Brussels Urges the Government to Reform the Official Secrets Law to Meet European Standards* (*Bruselas apremia al Gobierno a reformar la ley de secretos oficiales para cumplir el estándar europeo*), *elconfidencial.com*, 16 August 2024, https://www.elconfidencial.com/espana/2024-08-16/bruselas-apremia-gobierno-reformar-ley-secretos_3939362/.

data, even when it is not strictly necessary for the service being provided. For example, citizens are sometimes asked to provide identifying information to access public services that could operate with anonymised data. A comprehensive amendment of these laws should ensure that the identity of citizens is protected by default, only requiring personal data when strictly necessary. Moreover, internal protocols within institutions and companies should reflect these changes, mandating the protection of identities where possible and ensuring full compliance with data minimisation principles.

Guaranteeing Data Minimisation by Default

One of the GDPR's fundamental principles is data minimization, which requires that only the data strictly necessary for a specific purpose be collected and processed. In practice, both public and private sector actors often collect excessive data as a default approach. This includes overly broad data requests in public service applications or during commercial transactions. To address this, Spain should establish stricter regulations and oversight mechanisms to enforce data minimisation as the standard practice. This includes conducting regular audits of commonly used forms, systems, and procedures to ensure compliance. If it is found that a regulation or standard requires more data than necessary, immediate steps should be taken to amend it and bring it in line with GDPR principles.

Aligning National Laws with the GDPR

A critical issue in Spain is ensuring that national laws and regulations do not conflict

with GDPR requirements. This is particularly relevant in sectors such as healthcare, finance, and telecommunications, where extensive personal data collection occurs. A thorough review of these laws should be undertaken to identify any discrepancies. For example, if a national regulation mandates the collection of additional data beyond what is required under GDPR, it should be amended to ensure compliance. This process would also involve engaging with stakeholders, including regulators, businesses, and civil society, to ensure that changes are practical and enforceable. Promoting these changes proactively would strengthen citizens' trust in how their data is handled and reinforce Spain's commitment to GDPR compliance.

Proactively Publishing Public Interest Information

In addition to addressing data collection issues, Spain should adopt a more proactive approach to making public interest information readily available to citizens. Currently, the transparency framework often requires citizens to submit formal requests to access information that should be freely accessible. By creating systems and platforms that automatically publish relevant data—such as environmental statistics, public spending details, or legislative updates—Spain could significantly enhance transparency and accountability. This would not only reduce the administrative burden on both citizens and public bodies but also foster a culture of open governance that aligns with the principles of both GDPR and national transparency laws.

Amending Administrative Legislation

Laws such as Law 39/2015 and Law 19/2013 require updates to limit excessive data collection. Public institutions often demand unnecessary personal information for routine services, treating all interactions as formal procedures. Reforms should ensure data collection is minimal and proportional.

Guaranteeing Data Minimisation

Despite GDPR requirements, public and private entities in Spain often collect more data than necessary. Current frameworks, including Organic Law 3/2018, lack strong enforcement mechanisms for minimisation. Laws and practices must be reviewed to guarantee compliance with GDPR principles.

Aligning National and European Laws

Conflicts between Spanish and European laws undermine GDPR compliance. National regulations frequently mandate extensive data collection, contradicting EU standards. Legislative action is required to harmonise definitions and ensure practices align with GDPR protections.

Proactive Transparency

Spain's transparency system often requires formal requests to access public information, hindering citizen engagement. Institutions should proactively publish essential data, such as budgets and policies, on accessible platforms. Strengthened enforcement and open data initiatives are key to fostering accountability.¹¹⁴

Other

In 2014, Grupo Planeta and the Kiss FM radio station were in a legal conflict related to the advertising management of the Kiss FM stations. During this process, Planeta hired active Superintendent José Manuel Villarejo to investigate the arbitrator in charge of the case. Villarejo used his police position to access confidential information without authorisation. In 2024, the National Court confirmed his sentence to three years in prison for bribery, considering that he had accepted bribes to carry out these illegal investigations while he was still a public official.¹¹⁵

114 Xnet, *Privacy, Data Protection and Institutional Abuses (Privacidad, protección de datos y abusos institucionalizados)*, project coordinated by Simona Levi with Míriam Carles and the collaboration of Rubén Bujalance, César Manso-Sayao, and other participants, updated version as of December 2022, published under CC by-sa 4.0 license, <https://xnet.maadix.org/nextcloud/index.php/s/bwo2RQ5foDk3NMe>.

115 RTVE.es/EFE, *The National Court Confirms Villarejo's Bribery Conviction for Espionage in the Conflict Between Kiss FM and Planeta (La Audiencia Nacional confirma la condena por cohecho de Villarejo por espionaje en el conflicto entre Kiss FM y Planeta)*, RTVE.es, 13 November 2024, <https://www.rtve.es/noticias/20241113/audiencia-nacional-confirma-condena-por-cohecho-villarejo-por-espionaje-conflicto-entre-kiss-fm-planeta/16329665.shtml>.

CHECKS AND BALANCES –

Key recommendations

- *The establishment of objective and transparent criteria for judicial appointments: The lack of clear and verifiable criteria for appointments to the CGPJ and other judicial bodies remains a serious problem. A framework must be put in place to eliminate political influence on appointments and to ensure that appointments are made solely on the basis of merit.*¹¹⁶

Process for preparing and enacting laws

Framework, policy and use of impact assessments, stakeholders/public consultations (particularly consultation of judiciary on judicial reforms), and transparency and quality of the legislative process

Public consultations and citizen participation

In Spain, public consultation processes for legislative development are regulated by Article 133 of Law 39/2015, of 1 October, on the Common Administrative Procedure of Public

Administrations. However, these consultations are frequently perceived as a formal procedure and opaque in terms of participation and use of this participation. The limited practical implementation of these consultations has been criticised, calling into question their ability to reflect the capabilities and real concerns of citizens.^{117,118}

Ex post legislative impact assessments

Ex post evaluation, or the analysis of the effectiveness and compliance of laws after their implementation, is unusual in the Spanish legislative system. A report from the Center for Political and Constitutional Studies (CEPC)

116 Antonio Vico, *Elitist and Conservative Justice? Young Judges from Humble Backgrounds Make Their Way Through a Demanding and Expensive Selection Process (¿Justicia elitista y conservadora? Futuros jueces de origen humilde se abren paso ante una oposición exigente y cara)*, Cadena SER, 21 October 2023, <https://cadenaser.com/nacional/2023/10/21/justicia-elitista-y-conservadora-futuros-jueces-de-origen-humilde-se-abren-paso-ante-una-oposicion-exigente-y-cara-cadena-ser/>.

117 Cortes Generales, *Ley 39/2015, de 1 de octubre, del Procedimiento Administrativo Común de las Administraciones Públicas*, *Boletín Oficial del Estado*, núm. 236, 2 October 2015, pp. 89343-89424, <https://www.boe.es/buscar/act.php?id=BOE-A-2015-10565>.

118 Ministerio de Derechos Sociales, Consumo y Agenda 2030, *Preliminary Public Consultations (Consultas públicas previas)*, accessed 29 November 2024, <https://www.mdsocialesa2030.gob.es/index.htm>.

highlights the lack of a systematic approach in these evaluations, which affects the ability of laws to adequately respond to the problems they aim to solve.

Regulatory proliferation and legislative quality

The excess of regulations and their lack of clarity. It is a serious problem in Spain for legal security.^{119,120}

Problems in this area could be addressed by implementing the following recommendations:

- **Strengthen public consultation mechanisms:** Improve the accessibility and effectiveness of public consultations to guarantee genuine citizen participation.
- **Establish systematic ex post evaluations:** Evaluate laws after their application, ensuring an evidence-based approach for continuous improvement.
- **Simplify the regulatory framework:** Reorder the regulatory framework and prioritise the effective application of existing

laws before enacting new regulations, reducing regulatory proliferation and improving legislative clarity.

Independent authorities

The revolving door problem in Spain is very serious. Although Spain has a broad framework of independent organisations, their effectiveness as a real counter-power is limited. In practice, with a few exceptions, these organisations lack independence, generate duplication and do not carry out the task of counter-power and effectiveness that is entrusted to them.

The influence of the ‘partitocracy’ in the Spanish government reduces the operational autonomy of these organisations. As a result, their ability to act as guarantors of citizens’ rights and as a check on political power is questionable. At present, the countervailing power with a real capacity to counter this dynamic is the European Union, through its supervisory and regulatory mechanisms, which often promote necessary changes in areas such as transparency, judicial independence and fundamental rights.

119 Rosa María Fernández Riveira y María Díaz Crego, *Legislative Procedure: Quality and Evaluation of Laws. Conclusions from the Third Seminar of the Institute of Parliamentary Law (Procedimiento legislativo: calidad y evaluación de las leyes. Conclusiones del III Seminario del Instituto de Derecho Parlamentario)*, *Revista de las Cortes Generales*, no. 74 (August 2008): 205–28, <https://doi.org/10.33426/rcg/2008/74/849>.

120 Elsa Marina Álvarez González, *Legislative Technique and Dysfunctions of Normative Techniques in Spain: Current Challenges (Técnica legislativa y disfunciones de las técnicas normativas en España: Retos actuales)*, *Revista Vasca de Administración Pública (RVAP). Administrazio Publikoaren Euskal Aldizkaria*, no. 117 (2020): 17–73, <https://dialnet.unirioja.es/servlet/articulo?codigo=7563615>.

The annual reports of organisations such as the Ombudsman¹²¹ and the scrutiny of the European Parliament¹²² have helped to highlight areas for improvement and to expose systemic problems, in some cases encouraging reform.

Electoral framework

Enabling environment for the exercise of the right to vote: voter registration systems, accessibility of polling stations, remote/e-voting arrangements, threats and intimidation

Most voters avoided using polling booths in general, which exposed their preferences when collecting ballots in public areas and compromised the secrecy of the vote. In addition, physical accessibility problems were noted in several polling stations visited. Although the election results are always quickly published online, they were not broken down by constituency, which had a negative impact on the transparency of the process.

It is recommended that the secrecy of the ballot be strengthened through voter education and improvements in the layout of the polling stations to weaken patronage politics.¹²³

Rules on political advertising and their enforcement

In every election, cases of early campaigning and violations related to the use of official media for partisan purposes are commonplace. In addition, the intensive use of social networks for campaigning, including organic content and paid advertising, with illegal rules on transparency, segmentation and amplification based on personal data, stands out.^{124,125}

Eligibility criteria and restrictions to be a candidate

In Spain, electoral lists are closed and blocked, except in the Senate. This system contributes to the phenomenon of partitocracy,

121 Defensor del Pueblo, *Annual Report 2023 (Informe anual 2023)*, accessed 29 November 2024, <https://www.defensordelpueblo.es/informe-anual/informe-anual-2023/>.

122 Katarina Barley, *Report on the Situation of Fundamental Rights in the European Union: Annual Report 2022 and 2023*, A9-0376/2023, accessed 29 November 2024, https://www.europarl.europa.eu/doceo/document/A-9-2023-0376_ES.html.

123 Equipo de Expertos Electorales de la OIDDH, *Report on the Electoral Process (Informe sobre el proceso electoral)*, Madrid: Organización para la Observación Electoral, 2024, <https://www.osce.org/files/f/documents/d/3/564919.pdf>.

124 Equipo de Expertos Electorales de la OIDDH, *Report on the Electoral Process (Informe sobre el proceso electoral)*, Madrid: Organización para la Observación Electoral, 2024, <https://www.osce.org/files/f/documents/d/3/564919.pdf>.

125 Xnet, *Electoral Integrity and Political Microtargeting*, Xnet - Internet Freedoms & Digital Rights, 19 November 2024, <https://xnet-x.net/en/electoral-integrity-political-microtargeting-monitoring-european-elections-spain/>.

limiting the ability of voters to directly elect their representatives.

Irregularities, fraud and related safeguards, including independence and effectiveness of electoral bodies

Recurring irregularities include errors in vote counting and differences in criteria between electoral boards. Furthermore, the inability of polling stations to address complaints reflects a system that prioritises efficiency over transparency. The absence of robust mechanisms to preserve ballots exacerbates the lack of trust in the electoral process.¹²⁶

Transition of power

Although Spain does not face significant problems in the transition of power, the instability created by the bipartisan blockade has affected the political landscape. For the first time in

Spanish democracy, the opposition party has adopted rhetoric questioning the legitimacy of the government elected by parliament.

Access to balanced and reliable information online and offline during electoral campaign: campaigning, media coverage, disinformation and misinformation

Television remains the main tool for shaping political perception, due to demographic reasons. However, traditional media, dependent on government aid, has seen their editorial independence compromised, limiting the quality of information available to citizens.

In parallel, social networks have transformed campaign strategies. Facebook and Instagram lead in overall reach, while YouTube and Telegram have gained relevance among young and critical segments.¹²⁷

126 Partido X, 2014, *Journey to the Core of the Electoral System (2014, Viaje a las tripas del sistema electoral)*, accessed 2 December 2024, <https://partidox.org/2014-viaje-tripas-sistema-electoral/index.html>.

127 Xnet, *Electoral Integrity and Political Microtargeting*, Xnet - Internet Freedoms & Digital Rights, 19 November 2024, <https://xnet-x.net/en/electoral-integrity-political-microtargeting-monitoring-european-elections-spain/>.

CIVIC SPACE

Key recommendations

- *Repeal the 'gag law': We propose the repeal of provisions that criminalise peaceful protest and guarantee the full exercise of the right to demonstrate and freedom of expression, as this would reduce the demobilising effect on citizens and strengthen the protection of fundamental rights.*
- *Strengthen citizen participation: We propose the development of rigorous initial documents that bring together legislation, electoral programmes and previous contributions from civil society, as well as real-time moderation to guide the debate, prioritising the quality of contributions to generate viable public norms and policies, rather than limiting it to the volume of participation.*^{128,129}

Freedom of expression and of information

Rules on hate speech and their enforcement

In Spain, EU laws that criminalise hate speech have generated grave damage. Their application has generated a wide debate about possible excesses that could limit freedom of expression and cause legal uncertainty and have been used to protect non-discriminated groups.

These regulations are designed to combat hate speech in the digital and offline environment, but have been criticised for their collateral effects on freedom of expression. Framework Decision 2008/913/JHA requires Member States to criminalise hate speech, but its vague definition of 'hate speech' has allowed for broad interpretations that can restrict legitimate debate, and the Digital Services Act (DSA) reinforces this framework by requiring platforms to take stronger action against illegal content, but without clear safeguards to prevent abuse of moderation. Taken together,

128 Xnet, *Report on Promoting Participation Through the 'Decidim.Barcelona' Tool (Informe sobre la dinamización de la participación a través de la herramienta 'Decidim.Barcelona')*, Xnet - Internet, derechos y democracia en la era digital, 2 February 2017, <https://xnet-x.net/es/recomendaciones-herramienta-decidim-barcelona/>.

129 Partido X, *Democracy. Period. [Reduced Version] (Democracia y punto [versión reducida])*, accessed 2 December 2024, <https://partidox.org/democracia-y-punto-version-reducida/index.html>.

these laws have contributed to an environment in which self-censorship and the removal of legitimate content are inevitable by-products.¹³⁰

Identified Problems

- **Shifting focus toward discourse instead of facts:** It is criticised that Article 510 of the Penal Code, introduced in 2015, prioritises pursuing speech rather than actions, generating a broad and non-specific application. This makes it easier for the regulations to be used to censor legitimate expressions, especially in private contexts such as WhatsApp messages.¹³¹
- **Risks of criminalizing private spaces and freedom of expression:** Current legislation allows intervention in private communications, which threatens principles such as the inviolability of communications.
- **Polarizing and liberticidal effect:** The indiscriminate use of the concept of “hate speech” reinforces censorship dynamics that expand social polarization. This

especially affects satirical media, journalists and activists who criticise power structures.

- **Criminalisation of anonymity:** Although social networks allow the use of pseudonyms to protect privacy, campaigns against anonymity can violate this right, confusing freedom of expression with impunity to commit crimes.¹³²

In light of these problems, we recommend authorities to:

- **Review Article 510 of the Penal Code:** Limit its application to situations of power asymmetry or structural vulnerability, guaranteeing that only conduct that truly incites hatred or violence is prosecuted.
- **Protect private communications:** Ensure that the sanctity of communications remains a basic principle and private conversations are not used to justify sanctions.
- **Ensure anonymity:** Defend the right to anonymity on the internet, ensuring that legitimate privacy protection practices are

130 Xnet, #FakeYou: An Activist’s Guide to Defeating Disinformation, Xnet - Internet Freedoms & Digital Rights, 23 July 2024, <https://xnet-x.net/en/fakeyou-disinformation-free-download/>.

131 Cortes Generales, *Ley Orgánica 1/2015, de 30 de marzo, por la que se modifica la Ley Orgánica 10/1995, de 23 de noviembre, del Código Penal*, *Boletín Oficial del Estado*, núm. 77, 31 March 2015, pp. 27061-27090, <https://www.boe.es/eli/es/lo/2015/03/30/1>.

132 Simona Levi, *The Unsustainable Technophobia of the Left: Hate Speech, Fake News and Anonymity; The Corcuera Complex of the ‘New’ Politics in the Digital Age (La insostenible tecnofobia de la izquierda: discurso de odio, fake news y anonimato; el deje Corcuera de la ‘nueva’ política en la era digital)*, *Dominio Público* (blog), 19 February 2018, <https://blogs.publico.es/dominiopublico/25148/insostenible-tecnofobia-izquierda/>.

not criminalised while maintaining clear mechanisms to prosecute real crimes.¹³³

Criminalisation of speech

The Gag Law, enacted in 2015, continues to be an emblematic example of the criminalisation of public expression in Spain. Although reform proposals were presented in 2024, many of the most controversial provisions remain intact.¹³⁴

These include sanctions for disobedience to authority and the prohibition of disseminating images of members of the security forces in the exercise of their duties.

Crimes against the Crown and other crimes of expression

The debate on the decriminalisation of the crimes of libel against the Crown and other State institutions, such as the Government or the Army, has gained strength in 2024. According to the agreement reached between Government partners:

- It is proposed to repeal Articles 490.3 and 491 of the Penal Code, which criminalise insults against the Crown.
- The suppression of the crimes of insults to the Government of the Nation, the General Council of the Judiciary, the Constitutional Court and the Army is also proposed (Article 504 of the Penal Code).^{135,136}

This change seeks to align Spanish legislation with international standards of freedom of expression, ceasing to consider acts such as burning the flag or satirical expressions as crimes, such as those that led to the conviction of the comedians of satirical newspaper *El Jueves*.

These reforms have been celebrated as a step towards democratic regeneration, but their implementation depends on achieving a broad parliamentary consensus. However, the negotiations are in danger due to a lack of concrete progress.

133 Xnet, *#FakeYou: An Activist's Guide to Defeating Disinformation*, Xnet - Internet Freedoms & Digital Rights, 23 July 2024, <https://xnet-x.net/en/fakeyou-disinformation-free-download/>.

134 Onda Cero, *The Government and Bildu Agree on the Reform of the 'Gag Law': These Are the Key Points of the New Regulation (Gobierno y Bildu pactan la reforma de la ley mordaza: estos son los puntos clave de la nueva normativa)*, Onda Cero, 3 October 2024, https://www.ondacero.es/noticias/espana/gobierno-bildu-pactan-reforma-ley-mordaza-estos-son-puntos-clave-nueva-normativa_2024100366fe673a077ed10001de704d.html.

135 Gobierno de España, *Código Penal. Ley Orgánica 10/1995, de 23 de noviembre*, *Boletín Oficial del Estado*, núm. 281, 24 November 1995, pp. 33987-34058, <https://www.boe.es/buscar/act.php?id=BOE-A-1995-25444>.

136 Europa Press, *The Government Will Reform the Penal Code to Repeal Insults to the Crown and Religion, According to Sumar (El Gobierno reformará el Código Penal para derogar las injurias a la Corona y a la religión, según Sumar)*, Europa Press, 17 September 2024, <https://www.europapress.es/nacional/noticia-gobierno-reformara-codigo-penal-delitos-libertad-expresion-afecten-instituciones-religion-20240917131143.html>.

Restrictions on access to information

Identified problems in this area include:

- **Obsolete regulations:** The Official Secrets Act 1968 remains in force, severely limiting access to key information and perpetuating an opaque system that benefits established interests.
- **Deficiencies in the Transparency Law:** Although this law seeks to promote access to public information, its implementation is restrictive. Furthermore, the penalties for non-compliance are ridiculous, which discourages its correct application.¹³⁷
- **Lack of transparency in essential public developments:** The case of BOSCO, the application that decides who receives the social electricity bonus, is a paradigmatic example. Despite its impact on millions of people, the Government has refused to publish its source code, citing security and intellectual property risks. This reflects an opaque approach to transparency in crucial public tools.¹³⁸

These limitations hinder accountability and hinder informed citizen participation in

matters of public interest, weakening transparency and trust in institutions.

Considering this, we urge Spanish authorities to:

- **Reform of the Official Secrets Law:** Modernise the legal framework to guarantee access to relevant information of public interest.
- **Strengthening the Transparency Law:** Increase sanctions for non-compliance and simplify procedures for access to public information.
- **Transparency in public digital tools:** Mandate the publication of the source code of key developments such as BOSCO, ensuring adequate public scrutiny and fostering public trust.

Attacks and harassment

Administrative harassment

The Gag Law, in force since 2015, has imposed more than 2.1 million fines, collecting €1,289 million, with a 64.5% sanctions under progressive governments. Although its repeal was

¹³⁷ Xnet, *Consultation on the Regulation of the Transparency Law (Consulta sobre el reglamento de la Ley de Transparencia)*, *Xnet - Internet, derechos y democracia en la era digital*, 7 September 2017, <https://xnet-x.net/es/consulta-reglamento-ley-transparencia/>.

¹³⁸ Civio, *The National Court Again Refuses to Disclose the Source Code of the Program That Decides Who Receives the Social Bonus (La Audiencia Nacional vuelve a rechazar abrir el código fuente del programa que decide quién recibe el bono social)*, 8 May 2024, <https://civio.es/novedades/2024/05/08/la-audiencia-nacional-vuelve-a-rechazar-abrir-el-codigo-fuente-que-decide-quien-recibe-el-bono-social/>.

promised, it remains in force, affecting fundamental rights such as freedom of expression and peaceful assembly, with 291,400 fines for disobedience or disrespect.¹³⁹

Law enforcement capacity to ensure the safety of civil society actors and to investigate attacks and harassment

The application of the so-called ‘gag law’ in Spain has been remarkably selective, being used mainly to repress protesters and activists defending civil rights, while those linked to the glorification of Francoism have been treated with worrying leniency.¹⁴⁰ This bias in

the application of the rules is not accidental, as it reveals a structural problem.¹⁴¹ The security forces in Spain generally have a political leaning much closer to the extreme right^{142,143} than the average of the Spanish population.¹⁴⁴ This panorama has created a dangerous distortion in the climate of public space.

Online civic space

Digital surveillance

The Pegasus scandal in Spain broke in 2022 after it was revealed that politicians, activists and journalists had been spied on using

139 Santiago F. Reviejo, *The ‘Gag Law’ Already Surpasses Two Million Fines with No Agreement in Sight for Its Repeal (La ‘ley Mordaza’ supera ya los dos millones de multas sin acuerdo a la vista para su derogación)*, *Público*, 25 September 2024, <https://www.publico.es/politica/ley-mordaza-supera-millones-multas-acuerdo-vista-derogacion.html>.

140 Pedro Águeda, *Jupol Tries to Have a Far-Right Psychiatrist Act as an Expert Witness for the Defense of the Police Officers Who Killed a Young Man in Vallecas (Jupol intenta que un psiquiatra referente de la extrema derecha sea perito en defensa de los policías que mataron a un joven en Vallecas)*, *EIDiario.es*, 8 March 2024, https://www.eldiario.es/politica/jupol-psiquiatra-referente-extrema-derecha-sea-perito-defensa-policias-mataron-joven-vallecas_1_10992253.html.

141 Confidencial Digital, *Internal Affairs Already Identified Several Police Officers with Far-Right Profiles in ‘Spanish Spring’ (Asuntos Internos ya tiene identificados a varios policías con perfiles ultras en ‘Primavera Española’)*, *Confidencial Digital*, 1 April 2019, <https://www.elconfidencialdigital.com/articulo/seguridad/asuntos-inter-nos-tiene-identificados-varios-policias-perfiles-ultras-primavera-espanola/20190329144217123611.html>.

142 Álvaro Sánchez Castrillo, *SUP, the Progressive-Origin Police Union Seduced by Desokupa’s Far-Right (SUP, el sindicato policial de origen progresista que se dejó seducir por los ultras de Desokupa)*, *infoLibre*, 5 August 2024, https://www.infolibre.es/politica/sup-sindicato-policial-origen-progresista-dejo-seducir-ultras-desokupa_1_1856752.html.

143 Onda Cero, *Police Unions Reject the Agreement Between SUP and Desokupa for its ‘Serious Harm’ to the Police and Democracy (Sindicatos policiales rechazan el acuerdo entre el SUP y Desokupa por su ‘grave perjuicio’ a la Policía y la democracia)*, *Onda Cero*, 5 August 2024,

144 Francisco Martínez Hoyos, *The Spanish Police: Between Dictatorship and Democracy (La policía española, entre la dictadura y la democracia)*, *La Vanguardia*, 17 July 2024, <https://www.lavanguardia.com/historiayvida/propuestas/20240717/9788604/libros-agosto-ensayo-policia-dictadura-democracia.html>.

surveillance software, developed by the NSO Group. Pegasus allows remote access to mobile devices, collecting messages, calls and data without the user's knowledge.

In the Spanish context, it was discovered that Catalan independence leaders and members of their entourage, including lawyers in the exercise of their duties, had been targeted by this software, leading to accusations of political espionage. It was later revealed that the Spanish government itself, including members of the executive, were also victims of this programme.^{145,146}

The case raised serious concerns about the use of spyware in Spain, including

- **Lack of transparency:** It has not been fully clarified who ordered and authorised these spying operations.
- **Legal shortcomings:** Existing legislation does not adequately address the risks of misuse of these technologies.
- **Impact on fundamental rights:** The protection of privacy, freedom of expression

and confidentiality of communications has been called into question.

The Pegasus scandal has reopened the debate on the need to address the existence of a spyware industry that appears to be out of control.

Public participation

Other

The demands for greater political participation formulated by citizens during the mobilisations at the beginning of the decade have been unevenly addressed by political parties. While the spectrum on the right did not accept them, the parties on the left responded by implementing hollow participation mechanisms and occupations that, far from empowering citizens, ended up wearing out and exhausting the people involved.¹⁴⁷

Impact on civic space of emergency and crisis situations

During almost five decades of democracy in Spain, political parties have tried to hegemonise political life, but civil society has repeatedly demonstrated its ability to mobilise in the

145 Amnesty International, *Spain: Pegasus Spyware Scandal Reveals Risk of Intelligence Services Acting with Total Impunity*, 26 May 2022, <https://www.amnesty.org/en/latest/news/2022/05/spain-pegasus-spyware-scandal-reveals-risk-of-intelligence-services-acting-with-total-impunity/>.

146 Ronan Farrow, *How Democracies Spy on Their Citizens*, *The New Yorker*, 18 April 2022, <https://www.newyorker.com/magazine/2022/04/25/how-democracies-spy-on-their-citizens>.

147 Xnet, *Report on Promoting Participation Through the 'Decidim.Barcelona' Tool (Informe sobre la dinamización de la participación a través de la herramienta 'Decidim.Barcelona')*, *Xnet - Internet, derechos y democracia en la era digital*, 2 February 2017, <https://xnet-x.net/es/recomendaciones-herramienta-decidim-barcelona/>.

face of emergencies and humanitarian crises. Prominent examples include the Prestige disaster (2002), the Lorca earthquake (2011) and the COVID-19 pandemic (2020). The most recent case is the isolated high altitude depression phenomenon (DANA) that hit Valencia in October 2024, causing torrential rain and flooding with the tragic result of more than 200 deaths.

Faced with the inaction of the authorities and the power struggles between the central

and regional administrations, civil society responded in an exemplary manner. Thousands of volunteers organised themselves to rescue trapped people, distribute food and clothing, and help with clean-up and reconstruction. This collective effort once again demonstrated the ability of citizens to deal effectively with crises, replacing the neglect of institutional functions, which overturned their efforts mainly by politicising the facts.¹⁴⁸

DISREGARD OF HUMAN RIGHTS OBLIGATIONS AND OTHER SYSTEMIC ISSUES AFFECTING THE RULE OF LAW ENVIRONMENT

Systemic human rights violations

Widespread human rights violations and/or persistent protection failures

Between 2015 and 2022, at least 162 people died in Spain during police operations or in police custody.

The judicial career of the current interior minister is notable. Fernando Grande-Marlaska's career as a judge reflects a serious failure to

protect human rights. During his time as a judge, Spain was condemned by the ECtHR on several occasions, including in the Portu and Sarasola cases, for failing to investigate allegations of torture. This inaction shows a worrying alignment with the narrative of police impunity.

Grande-Marlaska's subsequent political rise and appointment as Minister of the Interior illustrates a worrying institutional tolerance of these failures. This undermines the credibility

148 elDiario.es, *This Is How the International Press Is Covering the Valencia Tragedy: 'The Macabre Search of a Small Town'* (*Así está contando la prensa internacional la tragedia de València: 'La macabra búsqueda de un pequeño pueblo'*), elDiario.es, 1 November 2024, https://www.eldiario.es/rastreador/contando-prensa-internacional-tragedia-valencia-macabra-busqueda-pequeno-pueblo_132_11785288.html.

of the Spanish democratic system in the defence of fundamental rights.^{149,150,151,152}

Impunity and/or lack of accountability for human rights violations

The ECtHR condemned Spain for insufficient investigation of a human trafficking network reported by a victim. The Court considered that the procedures carried out were inadequate and did not meet the standards required for cases of this severity. As a consequence, it was ordered to compensate the victim with €15,000 for damages and €12,000 for expenses.¹⁵³

Other systemic issues

The housing situation in Spain, marked by the rental crisis and the increasing difficulty in accessing a decent home, represents a serious violation of human rights. Real estate speculation, the lack of public housing and the absence of effective policies to mitigate prices have left many people in a situation of extreme vulnerability. This context not only generates housing insecurity, but also affects basic rights such as health, education and equal opportunities, by converting housing, a fundamental right, into an unattainable luxury for a significant part of the population.

Article 17.12 of the Horizontal Property Law (LPH) allows communities of owners to prohibit the activity of tourist rentals through

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- 149 Civio, *At Least 162 People Died During Police Operations or in Custody in Spain Between 2015 and 2022 (Al menos 162 personas murieron en actuaciones o bajo custodia policial en España entre 2015 y 2022)*, 29 October 2024, <https://civio.es/2024/10/29/al-menos-162-personas-murieron-en-actuaciones-o-bajo-custodia-policial-en-espana-entre-2015-y-2022/>.
- 150 Raphael Tsavkko Garcia, *Not Everyone Is in Awe of Spain's New Progressive Government*, *Al Jazeera*, accessed 29 November 2024, <https://www.aljazeera.com/opinions/2018/6/19/not-everyone-is-in-awe-of-spains-new-progressive-government>.
- 151 Amnistía Internacional, *Eight Convictions by the European Court of Human Rights Show That the Investigation of Torture Remains an Unresolved Issue in Spain (Ocho condenas del Tribunal Europeo de Derechos Humanos evidencian que la investigación de torturas es una asignatura pendiente de España)*, accessed 29 November 2024, <https://www.es.amnesty.org/en-que-estamos/noticias/noticia/articulo/ocho-condenas-del-tribunal-europeo-de-derechos-humanos-evidencian-que-la-investigacion-de-torturas-e/>.
- 152 Sam Jones, *Spanish Minister Defends Police Accused of Brutality at Melilla Border*, *The Guardian*, 6 March 2022, *World News* section, <https://www.theguardian.com/world/2022/mar/06/spanish-minister-defends-police-accused-brutality-melilla-border>.
- 153 European Court of Human Rights, *T.V. v. Spain* (Application no. 22512/21), Judgment of 10 October 2024, Fifth Section, <https://www.coe.int/en/web/anti-human-trafficking/-/european-court-of-human-rights-reaffirms-states-duties-to-investigate-human-trafficking-in-t.v.-v.-spain-judgment>.

an agreement adopted by a double three-fifths majority. This interpretation has been confirmed by the Plenary Sentences of the Supreme Court 1232/2024 and 1233/2024, which has represented the only progress of the year in this systemic problem.^{154,155}

154 Tribunal Supremo (España), Sala Primera (Civil), *Sentencia núm. 90/2024*, 24 January 2024 (casación, procedimiento núm. 6528/2021), ponente: Excmo. Sr. D. Antonio García Martínez, <https://vlex.es/vid/980946053>.

155 Tribunal Supremo (España), Sala Primera (Civil), *Sentencia núm. 1671/2023*, 29 November 2023 (casación e infracción procesal, procedimiento núm. 3508/2019), ponente: Excma. Sra. D.^a M.^a Ángeles Parra Lucán, <https://vlex.es/vid/972360236>.

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Xnet is a Barcelona-based collective of activists and specialists dedicated to advancing digital rights and modernising democracy for the digital age. Since its inception in 2008, Xnet has championed internet freedom, transparency, and anti-corruption through a combination of technopolitical tools and advocacy.

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The Civil Liberties Union for Europe

The Civil Liberties Union for Europe (Liberties) is a non-governmental organisation promoting the civil liberties of everyone in the European Union. We are headquartered in Berlin and have a presence in Brussels. Liberties is built on a network of 21 national civil liberties NGOs from across the EU.

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