



Civic Space Report 2024

SPAIN





About the author

NOVACT defends rights and freedoms in the Euro-Mediterranean region to promote a fair and lasting peace. The organisation strengthens an ecosystem of social change that confronts authoritarianism by accompanying movements and human rights defenders through nonviolence. The work is based on a holistic approach, emphasising social environmentalism and gender justice, which fosters coordination and community building for fundamental rights. NOVACT strengthens and supports the role of civil society as a key actor in conflict prevention. The organisation is committed to a strategy based on nonviolence and human security that focuses on preventing authoritarianism, extremist violence, and negative polarisation, building social cohesion, and contributing to conflict transformation.

Òmniium Cultural is one of the main civil society organisations in Spain and a relevant cultural association in Europe, with more than 190,000 members and 60 years of history. It has been, and continues to be, a pillar for the promotion of Catalan language and culture, as well as a key defender of civil and human rights. One of Òmniium's goals is to find broad consensus to favour social cohesion, with an increasing involvement at both the European and global level. The organisation carries out cultural projects, supports social cohesion through education and promotes the Catalan language, literature and arts.

About this report

This analysis was published as part of the European Civic Forum's Civic Space Report 2024. The full report contains chapters written by its secretariat, by member organisations, or by partner organisations and individuals. Much of the content originally appeared as part of ECF's submission to the European Commission's Rule of Law consultation. Each chapter reflects the views and analysis of its respective author. For more information about the European Civic Forum, please visit www.civic-forum.eu

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Key trends

- 🔍 **Anti-terrorism laws increasingly applied against human rights and environmental defenders in the name of public or national security.**
- 🔍 **Police infiltration operations in social movements seriously violates fundamental rights & creates a chilling effect.**
- 🔍 **Protesters face arrests, persecution, disproportionate fines, police violence and ill-treatment in police custody**

Summary

Civic space is rated as narrowed in Spain.¹ There were no recommendations on civic space for Spain in the European Commission's 2023 Rule of Law report, however the report noted civil society concerns regarding the so-called Gag law. This continued in 2023 as the Spanish government failed to reform the Gag Law.² In a serious concern, independent media uncovered police infiltrations in social movements³ which have been criminalised. The application of anti-terrorist laws has been instrumentalised by the authorities to restrict human rights and environmental defenders advocating for different issues, such as environmental and climate protection and Catalanian self-determination.

Police violence and the lack of police identification and accountability, the arbitrary banning of protests, persecution, detention and arrests, identity checks, as well as ill-treatment, humiliation and assaults of activists in police custody have remained worrying issues. These types of violations and

¹ <https://monitor.civicus.org/country/spain/>

² <https://www.elsaltodiario.com/ley-seguridad-ciudadana/reforma-ley-mordaza-game-over-psoe-represion-sanciones>

³ <https://www.elsaltodiario.com/policia/seis-infiltrados-curso-2022-2023>

the lack of police transparency, often justified for reasons of public and national security, are serious threats to democracy and the rule of law in Spain.

There was an escalation in cases restricting freedom of expression and information, with a significant number of journalists arrested during protests.⁴ The last few months of the year were characterised by protests in solidarity with Palestinian people as a result of escalating violence in Israel/ Palestine. During these protests, legal proceedings against activists were initiated⁵, arbitrary racial profiling took place, and the display of Palestinian flags in public spaces, especially at sporting events⁶ was restricted. Online pro-Palestinian engagement was censored by removal or banning of content.

The Spanish authorities have failed to address and investigate the massive Pegasus spyware scandal of 2022, targeting at least 65 persons⁷, including members of the Catalan independence movement, politicians, lawyers, journalists, activists as well as some of their family members. Most of the ongoing judicial investigations were paralysed and the Spanish authorities have not implemented any of the recommendations of the European Parliament's PEGA Committee.⁸

⁴ <https://www.elsaltodiario.com/libertad-informacion/detenidas-dos-periodistas-informaron-accion-climatica-majas-goya-museo-prado>

⁵ https://www.elnacional.cat/es/politica/detenidas-cuatro-personas-por-protesta-propalestina-contrahotel-judio-en-barcelona_1129041_102.html

⁶ https://www.eldiario.es/sociedad/multa-llevar-bandera-legal-estadio-caso-eibar-agita-debate-libertad-expresion_1_10603804.html

⁷ <https://www.es.amnesty.org/en-que-estamos/blog/historia/articulo/un-ano-despues-ni-rastro-de-pegasus/>

⁸ <https://www.lavanguardia.com/politica/20230508/8951868/comite-pegasus-pide-espana-investigue-todos-presuntos-casos-espionaje-politico.html>

Institutional, political and socio-economic landscape

In July 2023, general elections were held with the right-wing Partido Popular (PP) winning but without enough support to form a government. In November, after months of negotiations, Pedro Sanchez from the Spanish Socialist Workers' Party (PSOE) managed to form a minority government with the left Sumar coalition, thanks to an amnesty deal with Catalan parties. The controversial deal led to mass protests around Spain.

Although the state of civic space in Spain is not threatened at very high levels, it should be noted that civic space is shrinking, and the political landscape is increasingly polarised. The legal framework created since 2015 has resulted in challenges for an enabling environment for civil society and the exercise of the fundamental freedoms of association, peaceful assembly and expression.

The entry of right-wing parties PP and Vox into the government of various city councils and regional executives after the elections in May, has resulted in suppression of Equality councils, opposition to 'violent points', censorship of plays, or even rejection of minutes of silence in memory of women murdered by their partners or ex-partners.⁹ With Vox's support, PP has eliminated the equality areas of the city councils, that mostly work on supporting victims of sexist violence, in one third of the large cities in which it governs. Some of these municipalities are regional capitals, such as Valladolid and Toledo, or prominent cities like Burgos, Huelva, Talavera de la Reina, Orihuela, Molina de Segura, and Ponferrada. In Valdemorillo (Madrid). The performance "Orlando" by the British author Virginia Woolf was removed from the programme of a theatre due to the Vox party. In Toledo, the council removed "La Infamia", a play by the Mexican journalist Lydia Cacho who depicted her kidnapping and women's rights violations in her country.

The final months of 2023 were marked by protests against the escalating violence in Israel/Palestine. During the protests, numerous cases of arbitrary identifications and ethnic and racial profiling have

⁹ <https://www.huffingtonpost.es/politica/lo-pp-vox-han-fulminado-dos-meses-concejalias-igualdad-puntos-violeta-obras-feministas.html>

been reported. The extreme right-wing demonstrations in Madrid at the beginning of November which resulted in increasing levels of racism and homophobia¹⁰, generated a chilling effect in public spaces for racialised people and LGBTIQ+ communities.

Civic freedoms: regulatory environment and implementation

Freedom of association

Police infiltration and the use of spyware

The primary laws governing freedom of association are the Spanish Constitution, particularly in Article 22, the Organic Law regulating freedom of association (LO 1/2002, March 22), and the Penal Code (LO 10/1995, November 23). Although the Penal Code underwent recent reform in 2022, the introduced modifications do not impact on freedom of association. These laws align with international standards on freedom of association. The police did not gain any additional powers in Spain in 2023.

Despite the regulatory environment, in the past few years Spanish state authorities have violated the right to association in various ways. Incidents such as the use of Pegasus spyware on political dissents, activists, journalists and lawyers, and police infiltration in civil society organisations and social movements have been documented.

¹⁰ https://www.eldiario.es/politica/ultima-hora-investigacion-pedro-sanchez-actualidad-politica-directo_6_10676352_1104293.html

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2023 has been strongly marked by six cases of national police infiltrators in social movements uncovered by the media, mainly in Catalonia, Madrid and Valencia. Most of them had been involved for years in movements and organisations that work on different causes, such as the anarchist movement, housing unions, pro-independence organisations, student unions or the squatters' movement. In several cases, the infiltrated police officers developed emotional and sexual relationships with some activists, and even dated some of them. Sex-affective relationships have been identified as the main strategy for infiltrating and consolidating trust with movements¹¹, with the endorsement and cover-up by the rest of the police structure. This strategy reflects how institutional and sexual violence intersect. Sexual violence is linked to institutional violence when these actions are perpetrated by a police officer in the course of duty, seemingly authorised, endorsed, and permitted by the institutional structure to which they belong.

In January 2023, five women activists initiated criminal proceedings against one of the infiltrated police officers for crimes including continuous sexual abuse, torture, or alternatively, violation of moral integrity, discovery and disclosure of secrets, and prevention of the exercise of fundamental rights, notably the violation of freedom of association.¹² In November 2023, one male activist and four civil society organisations, among them Omnium Cultural, initiated criminal proceedings against another infiltrated police officer for the crime of torture and violation of moral integrity¹³, as well as the discovery and disclosure of secrets.

Police infiltrations have had a chilling effect and a significant impact on social movements in Spain, especially in Catalonia. Such police operations are unnecessary and unjustified and violate the principles of the rule of law and democracy and restrict civic space.

The chronology of police infiltrations in social movements were as follows:

- 🔍 In June 2022, the newspaper La Directa revealed that the real identity of Marc Hernández Pon¹⁴, an activist in a *casal*¹⁵ in the Eixample neighbourhood of Barcelona, corresponded to that of an agent of the National Police.

¹¹ <https://www.publico.es/sociedad/policia-utilizaba-relaciones-sexoafectivas-infiltrarse-movimientos-sociales-barcelona.html>

¹² <https://elpais.com/espana/catalunya/2023-02-01/cinco-mujeres-se-querellan-contra-un-supuesto-policia-infiltrado-en-barcelona.html>

¹³ <https://www.elperiodico.com/es/politica/20220801/omnium-demanda-infiltraciones-independentistas-policia-movimientos-juveniles-14203493>

¹⁴ <https://blogs.publico.es/dominiopublico/46002/marc-el-poli-infiltrado/>

¹⁵ A Catalanian reference to place for social movements and communitarian work.

- 🔍 In January 2023, the same media disclosed that an ‘activist’ of the libertarian movement and the right to housing called "Dani"¹⁶ was an agent of the National Police.
- 🔍 In February 2023, La Directa revealed the real identity of another police officer. Under the fake name "Ramón Martínez Hernández"¹⁷ he had infiltrated social movements in València for two years, specifically different anti-fascist organisations and in squatting social projects.
- 🔍 In March 2023, El Salto published that Mavi L.F.¹⁸, an ‘activist’ of environmentalist movements and participant in the social centre *La Animosas*, was an agent of the National Police Force.
- 🔍 In July 2023, La Directa tracked down Maria I.T.¹⁹, who was active in the anti-racist movement and forged strong links with activists of the Comitè de Defensa de la República de Girona (Committee for the Defence of the Republic of Girona).
- 🔍 In September 2023, it was uncovered that Sergio²⁰, a National Police officer, lived a double life for six years infiltrating anti-repressive movements in Madrid, and participated in many protests, including in the referendum of October 1, 2017, in Barcelona.

In 2023, many cases of spying on political party leaders with the use of the Pegasus were exposed in Spain. In December, it was revealed that the Spanish National Court ordered the use of spyware²¹, later revealed as Pegasus, on the phones of former members of the parliament as part of the investigations into the Catalan Tsunami Democràtic movement. Among those affected were persons such as former members of the Catalan Parliament, David Fernández and Quim Arrufat, from the CUP party, and Albano Dante, former leader of the political coalition *Catalunya Sí Que Es Pot*. Following these incidents, some parties have been pushing for a commission of enquiry in the

¹⁶ <https://www.elsaltodiario.com/espionaje/dani-segundo-infiltrado-activismo-catalan-destapado-directa>

¹⁷ <https://arainfo.org/un-policia-infiltrado-en-valencia-que-lideraba-acciones-de-sabotaje/>

¹⁸ <https://www.publico.es/sociedad/descubren-policia-infiltrada-movimientos-sociales-madrid.html>

¹⁹ https://www.elnacional.cat/es/politica/policia-espanola-infiltra-anos-movimientos-independentistas-girona_1061520_102.html

²⁰ <https://www.elsaltodiario.com/policia/seis-anos-infiltrado-movimientos-sociales-madrilenos>

²¹ https://www.elconfidencial.com/espana/2022-04-28/pegasus-sanchez-gobierno-autorizo-cni-tsunami-democratic_3415623/

Spanish Congress of Deputies to clarify the facts and to determine who is responsible²² for these human rights violations.

Freedom of peaceful assembly

Developments on the so called 'Gag law'

The main laws that regulate freedom of peaceful assembly, which is protected under Article 21 of the Spanish Constitution are the Organic Law regulating Freedom of Assembly (LO 9/1983, July 15), the Organic Law regulating Citizen Security (LO 4/2015, March 30), also known as the Gag Law, and the Penal Code (LO 10/1995, November 23), which was recently reformed. Both the Gag Law and the new version of the Penal Code approved in 2022 are criticised for not being in line with international and European human rights standards²³, particularly the provisions that affect the right to freedom of expression, right of peaceful assembly, right to request asylum and the prohibition of refoulement.

The Gag Law has been criticised since it was passed due to multiple factors, such as the discretionary powers that it gives to police officers, the increase of infractions that it establishes compared to the previous law, and the difficulty of appealing against a sanction (because of the veracity presumption that police officers have, and because of the bureaucracy and technicality to do so). The language that is used in the law has been a target of criticism because it is very ambiguous, which, in practice, allows irregular and arbitrary police intervention.

The amendment to the Gag Law is urgently needed due to its ability to repress the freedom of peaceful assembly. Various international and regional human rights organisations, such as the Commissioner for Human Rights and the Venice Commission of the Council of Europe have called for its reform²⁴. On March 14, the process of reforming the law failed. Numerous civil society organisations, including Amnesty International, *No Somos Delito*, *Defender a quien Defiende*, and Greenpeace, expressed regret over the "missed opportunity" to reform the Gag Law due to a lack of majority support in the Interior Committee.²⁵ This development is distressing for human rights

²² <https://www.europapress.es/nacional/noticia-congreso-aprueba-comisiones-investigacion-operacion-cataluna-pegasus-atentados-17-20231212230311.html>

²³ https://www.eldiario.es/politica/consejo-europa-insta-espana-reformar-ley-seguridad-ciudadana-potencial-represivo_1_7334898.html

²⁴ Letter to the Spanish Government from the Commissioner for Human Rights on the reform of the Citizen Security Law (2022) https://es.scribd.com/document/558802891/CommDH-2022-4-Letter-to-the-Spanish-Parliament-EN#from_embed

²⁵ <https://www.es.amnesty.org/en-que-estamos/noticias/noticia/articulo/espana-ley-mordaza-oportunidad-perdida-y-frenazo-en-la-proteccion-de-los-derechos-humanos/>

defenders since it undermines confidence in the participation system and represents an exhaustion of formal political advocacy processes. Furthermore, it means continuing to maintain the *bureau repression*²⁶ faced by rights defence movements in Spain. On 24 October, PSOE and Sumar, the parties governing after the 2023 elections, signed a coalition pact for the next government²⁷, renewing the failed commitment made in 2023: the approval of "a new law on citizen security, which replaces the 'Gag Law' to guarantee the exercise of the right to freedom of expression and peaceful assembly."

Social movements branded as “terrorists”

A worrying trend in 2023 has been the arbitrary terrorism accusations against civic actors under the pretext of national or public security. The targeting of social movements as "terrorists" is reflected in the last annual report of the Prosecutor General's Office (covering 2022), published in September 2023²⁸, which initially classified the actions of the anti-fascist movement, environmentalists (particularly the collectives Futuro Vegetal and Extinction Rebellion), and the Catalan independence movement as "national terrorism". However, after public criticism, the Prosecutor General's Office retreated²⁹, denying that Futuro Vegetal and Extinction Rebellion are considered "terrorists".

The inclusion of these organisations and movements in the annual report reveals how Spanish institutions assess and categorise some civic actors. The categories used in the report contribute to the vilification and criminalisation of particularly active groups. In its subsequent clarification, the Public Prosecutor's Office only excluded the two environmentalist groups and avoided commenting on other criminalised groups, such as Catalan and Basque independence groups and the anti-fascist movement, which appear as "threats" under the label of "national terrorism".

²⁶ Bureaucratic repression is the use of administrative sanctions available in the framework of laws, norms and ordinances in order to deactivate the protest of social movements. See more Oliver, P. (2013). "*Bureaurepression: Administrative sanction and social control.*"

²⁷ https://www.newtral.es/wp-content/uploads/2023/10/ACUERDO_GOBIERNO_COALICION_2023-DEF.pdf?x97555

²⁸ <https://www.elperiodico.com/es/medio-ambiente/20230912/fiscalia-pasa-considerar-extinction-rebellion-91884518>

²⁹ <https://www.publico.es/politica/fiscalia-desmiente-futuro-vegetal-y-extinction-rebellion-sean-terroristas.html>

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On 7 November, a National High Court judge investigating the Tsunami Democràtic movement requested that the Supreme Court charge 12 people from the movement with terrorism.³⁰ They are accused of organising the November 2019 Tsunami Democràtic protest against the more than 100 year prison sentence handed down to nine Catalan social and political leaders. The judge found non-violent civil disobedience mass demonstrations to be terrorism, citing examples of demonstrations at El Prat airport and the blocking of the La Jonquera road on the French border. The 12 individuals face charges of terrorism and potential sentences of more than 20 years in prison.³¹ Moreover, the indictment of journalists in this case has also been perceived as a severe attack on freedom of expression.

Among the 12 people investigated for terrorism is journalist Jesús Rodríguez³², a prominent figure who uncovered cases of police espionage in social movements and Oleguer Serra, a member of the board of directors of Òmnium Cultural, a Catalan cultural civil society organisation. It is worth noting that the investigation was reopened in the same week during which negotiations for the formation of the new government took place and the amnesty law for people prosecuted and convicted in connection with the Catalan movement for self-determination. A decision to investigate political representatives, journalists and civil society actors for terrorism in the current context may interfere in the parliamentary negotiations on the amnesty law, which could de facto result in judicial interference by the legislature. The Amnesty Law remains unapproved due to the lack of agreement between the Government and the Catalan Party Junts. In January 2024, Junts voted against the law because the PSOE did not accept its amendments to exclude terrorist offences from the amnesty “as long as there is a final judgment” on a specific case.³³ The draft law was returned to the Justice Commission and the deadline to clear the law has been extended until March, allowing more time for negotiation.

³⁰ <https://elpais.com/espana/2023-11-03/la-audiencia-nacional-envia-a-juicio-a-los-12-cdr-procesados-por-terrorismo-en-plena-negociacion-de-la-amnistia.html>

³¹ <https://www.europapress.es/nacional/noticia-fiscalia-pide-imponer-penas-27-anos-prision-12-cdr-pertenencia-organizacion-terrorista-20231124130850.html>

³² <https://www.europapress.es/nacional/noticia-fiscalia-pide-imponer-penas-27-anos-prision-12-cdr-pertenencia-organizacion-terrorista-20231124130850.html>

³³ <https://www.euractiv.com/section/politics/news/last-chance-for-spanish-government-to-amend-controversial-amnesty-law/>

On 22 November, the Public Prosecutor requested prison sentences of one year and nine months for each of the fifteen activists of the Scientific Rebellion movement who threw beetroot-stained water at the Congress of Deputies on 6 April 2022 to raise awareness of the climate crisis.³⁴

On 24 November the Public Prosecutor's Office of the Audiencia Nacional accused the twelve members of the Committees for the Defence of the Republic (CDRs) involved in the Judas operation³⁵ carried out by the Civil Guard under the orders of the Central Court of Investigation number 6 of the National Court. The operation began in September 2019 with 500 agents deployed in Barcelona and several nearby locations. In total, nine people were arrested for links to an alleged organisation with the intention of trying to achieve the independence of Catalonia through violent means. They may face up to 27 years in prison and absolute disqualification. Eight of the activists were accused of being members of a terrorist organisation, for the possession and manufacturing of explosives, and for destruction. The remaining four were accused of being members of a terrorist organisation and sentenced to eight years in prison. The charges come following protests in December 2018, and in February 2019 on the occasion of the Council of Ministers held in Barcelona which led to forced road closures.

Other restrictions on the freedom of peaceful assembly included the banning of protests. For example, social movements, trade unions and political organisations in Granada accused the sub-delegation of the government of Granada for banning a demonstration against the European Summit planned for 5 October, despite a request for permits in advance. The social organisations appealed to the High Court of Justice of Andalusia on the grounds that the absolute prohibition of the demonstration violates the right to peaceful assembly. The court agreed and ruled that the sub-delegation should have proposed an alternative route admitting that the prohibition violates fundamental rights.³⁶

On July 8 the Madrid municipal police intervened in an event on the climate crisis which took place in the Asamblea Popular de Carabanchel (a neighbourhood in the south of Madrid).³⁷ According to the organisers, the officers threatened to sanction and arrest those attending the meeting if it was not dissolved immediately because they did not have a permit. This contravenes Article 21.1 of the

³⁴ <https://www.elsaltodiario.com/cambio-climatico/fiscalia-pide-21-meses-15-activistas-rebelion-cientifica-tineron-congreso-remolacha>

³⁵ <https://www.elsaltodiario.com/cdr/en-libertad-los-ultimos-dos-cdr-presos-por-la-operacion-judas>

³⁶ <https://www.elsaltodiario.com/cumbre-social-granada/tsja-autoriza-manifestacion-cumbre-social-granada>

³⁷ <https://www.publico.es/sociedad/policia-almeida-disuelve-charla-vecinal-crisis-climatica.html>

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Spanish Constitution which recognises and specifies that "the exercise of (peaceful assembly) shall not require prior authorisation." It also states that prior notice is only required if the meeting is held in public places and for demonstrations.

Identity checks are common practice in the contexts of mobilisations and protests. For example, the platforms *Defender a quien Defiende* and *Stop Represión Granada* reported that an incident took place during a protest on 30 September.³⁸ According to both groups, an observer was allegedly forced into a doorway by a plainclothes policeman and identified by photographing her ID card. She was forced to delete all photographs and videos of the protest and threatened with a fine if she continued to document the protest. The organisations reported the incident to the sub-delegation of the government and the Ombudsman of Granada. It is important to note that the data provided by *Defender a quien Defiende's* platform may not be fully representative, as they lack the necessary resources to monitor the overall number of violations at a national level.

The *Defender, a quien Defiende* platform, reported at least 60 active cases against climate activists. Most of the cases were filed against members of Futuro Vegetal, a civil disobedience collective that aims to uncover unethical companies and governments responsible for the climate and eco-social crisis. In July 2023, the platform published an investigation showing the systematic repressive responses against the collective. The report illustrates the criminalisation and persecution that the environmental movement is facing.³⁹

From January 2022 to June 2023, the platform also reported at least 131 violations of rights.⁴⁰ This included 34 actions carried out by the environmental collective, 49 arrests, with excessive use of force in some cases; (30 of them occurred only during the month of April) and five cases of alleged ill-treatment, torture and humiliation in police stations. The collective still has 29 criminal proceedings and faces a claim of at least €57,800 in property claims and other sanctions.

In 2022 and 2023, police carried out alarming violations during the arrests of the Futuro Vegetal activists. The length of detention exceeded the legal limit (an average between six and 78 hours). The activists were exposed to insults, humiliation during detention, and alleged threats of direct violence in some cases. The activists reported that vegetarians and vegans were denied food during their time in police custody without any explanation. The *Defender a quien Defiende* platform also reported

³⁸ <https://www.elsaltodiario.com/cumbre-social-granada/3000-personas-reclaman-otra-europa-granada-una-observadora-amenazada-policia>

³⁹ <https://defenderaquiendefiende.org/defender-a-quien-defiende-denuncia-que-entre-2022-y-2023-ha-sistematizado-al-menos-131-vulneraciones-de-derechos-humanos-contra-futuro-vegetal/>

⁴⁰ https://defenderaquiendefiende.org/wp-content/uploads/2024/02/DQD_vulneracionesWEB.pdf

gendered harassment by the police officers. For example, in June 2023, three women activists reported that they were forced to urinate and change their clothes with the doors open during the detention, while male police officers verbally harassed them. They were denied privacy while making the personal phone call and during the meeting with their lawyer. Both took place in a room with police officers and the sound was played through a loudspeaker.

The violations also took place against journalists covering Futuro Vegetal actions. At least three journalists have been detained, one prosecuted for damages, and four were identified, searched, and registered at the scene of the events, hindering their work. These developments violate the right of access to information and freedom of expression, especially in a protest context.

Access to public spaces remains unequal for certain groups. In particular, migrants with irregular administrative status cannot fully exercise their right to peaceful assembly, as they face the risk of deportation due to a punitive approach to demonstrations, where the identification and sanctioning of protesters have become the norm. Even migrants with regular administrative status (such as a residence permit) have expressed concerns that the risk of sanctions during protests discourage their participation, given that it could lead to a denial of permit renewals. Civil society organisations raised concerns over racist bias in access to public spaces and political participation. Such restrictions on the right to protest intersects with gender, resulting in specific security risks for women and the LGBTIQ+ community.

Freedom of expression is threatened by censorship, attacks on journalists and the suppression of pro-Palestinian voices

The main laws that regulate freedom of expression are in Article 20 of the Spanish Constitution, the Organic Law regulating Citizen Security (LO 4/2015, 30 March, so-called Gag law, and the Penal Code (LO 10/1995, 23rd November). The main articles affecting freedom of expression in the Gag law are Article 36.23 and Article 37.4 Article 36.23⁴¹ is used as a pretext by police officers to prevent protesters from recording their actions and to intimidate them. Article 37.4⁴² is used by police officers to fine protesters because of their words.

⁴¹ *The unauthorised use of images or personal or professional data of authorities or members of the Security Forces that may endanger the personal or family safety of the agents, of the protected facilities or those at risk success of an operation, with respect to the fundamental right to information."*

⁴² *"The lack of respect and consideration whose addressee is a member of the Security Forces and Corps in the exercise of their functions of protection of the security, when these behaviours do not constitute a criminal offense".*

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As stated previously, the Penal Code has been reformed. However, the reform does not affect the articles regarding freedom of expression. The relevant articles that are mostly used to repress protest are glorification of terrorism (Art. 578 PC), insults against the monarchy or public officers (Art. 490.3 PC) and vilification of religious feelings, dogmas, beliefs or rituals (Art. 525 PC).

Throughout 2023, at least twenty journalists have faced restrictions while carrying out their work during actions and mobilisations. Some were arrested, others were fined, and some were identified or detained while attempting to cover the events. One journalist was charged with terrorism in the case of the Catalan pro-independence movement Tsunami Democràtic.

Concerning the escalating violence in Israel/Palestine, the Palestine solidarity movement has carried out hundreds of protests throughout Spain. Police have carried out identifications (some involving ethnic profiling), detentions, and prohibition of Palestinian symbols⁴³ such as flags, clothes or 'keffiyehs' (Palestinian scarves). Pro-Palestinian symbols have been banned in sports stadiums and school teachers have been targeted for speaking about the violence ongoing in Palestine. Some schools restricted demonstrations in solidarity with Palestine for fear of being accused of anti-Semitism by the authorities.⁴⁴ However, this is not a new trend as public education has been used by political parties in Spain for years, particularly in Catalonia. For example, Catalan schools have been accused of indoctrination simply because teachers discussed social and political topics from a human rights and democracy perspective.

In terms of digital, social media users have denounced censorship, removal of content and suspension of accounts for creating or sharing pro-Palestinian content or content related to the escalating violations ongoing in Israel/Palestine. Catalan media outlet El Nacional violated the privacy rights of three pro-Palestinian activists after the unauthorised dissemination of their images. The online newspaper published an article detailing protests they had participated in and displayed images of the activists' faces, citing internal police sources. The newspaper accused the activists of anti-Semitism, even before the police investigation had been concluded.

Political institutions have also censored symbols, banners or messages of trade unions defending health rights or feminist causes. One of the most notable cases is the strike staged by health centres of Madrid in February 2023, during which the Community President, Isabel Díaz Ayuso, banned posters inciting strikes.⁴⁵ Another case was in Sant Cugat del Vallès in Barcelona, where the city

⁴³ <https://blogs.publico.es/dominiopublico/56015/la-liga-y-el-peligro-de-prohibir-banderas-palestinas/>

⁴⁴ https://www.eldiario.es/madrid/somos/israel-pide-prohibir-concentraciones-colegios-madrid-huelgas-estudiantiles-apoyo-pueblo-palestino_1_10679657.html

⁴⁵ https://www.eldiario.es/madrid/ayuso-prohibe-carteles-favor-huelga-atencion-primaria-centros-salud-madrid_1_9954385.html

council exercised censorship and forced the removal of a mural painted at a school by students and teachers in solidarity with civilians of Gaza.⁴⁶

Musicians, comedians and cartoonists have also faced restrictions on their freedom of expression. In November 2023, the European Court of Human Rights dismissed the appeal filed by rapper Pablo Hasel⁴⁷, who was sentenced by a Spanish court in 2021 to nine months of prison for glorifying terrorism in his lyrics against the monarchy and hence perpetuating a serious violation of freedom of expression. In 2017⁴⁸, twelve rappers from the musical group 'La Insurgencia' were convicted of glorifying terrorism and sentenced to six months of prison in 2023. One of the rappers, Valtònyc, was indicted again upon his return to Spain ⁴⁹after spending several years in exile in Belgium, following his conviction for glorification of terrorism and insulting the Spanish Crown. Cartoonist and comedian Darío Adanti, co-founder of the magazine 'Mongolia', was prosecuted for offending religious feelings on a cover of the magazine.⁵⁰

Separately, the Socialist Party of Catalonia (PSC) - which holds the mayor's office - denounced the councillor of the city of Sabadell for his statements on the radio where he asked the city government for explanations for a work-related death of the employee in the municipal water management company. The counsellor received a judicial notice to attend a conciliation process which is still pending resolution.

It should be noted that while censorship exists in Spain and is a serious human rights issue, far-right movements and parties distort narratives on censorship and freedom of expression and use them to create new narratives to justify and spread hate speech against marginalised groups. Self-censorship is most likely a widespread phenomenon due to threats to freedom of expression, although it remains difficult to measure the extent of its visibility. Amnesty International Spain has denounced increasing self-censorship, particularly in the areas of culture, social media and education.

⁴⁶ <https://www.elperiodico.com/es/sant-cugat/20231207/sant-cugat-ordena-retirar-mural-palestina-95536177>

⁴⁷ https://www.eldiario.es/catalunya/tribunal-estrasburgo-rechaza-demanda-pablo-hasel-espana-vulnerar-libertad-expresion_1_10668912.html

⁴⁸ <https://www.publico.es/politica/insurgencia-condenan-2-anos-1-dia-doce-raperos-insurgenica.html>

⁴⁹ https://www.elconfidencial.com/espana/2023-10-28/valtonyc-regresa-espana-extranjero-puigdemont_3763476/

⁵⁰ <https://www.elsaltodiario.com/libertad-expresion/dario-adanti-mongolia-sentimientos-religiosos-acude-juzgado-explicarle-chiste-juez>

Safe space

Beyond the often-disproportionate police violence exercised by state security forces against mobilisations and demonstrations, the following three cases show how physical violence in the context of protests has been exercised by other non-institutional actors. In these cases the Spanish authorities have failed to hold the perpetrators to account. On March 8, a driver hit three feminist protesters who were blocking one of the main roads in Barcelona.⁵¹ A similar case occurred in Madrid during an environmental cyclist march in which another driver ran over several demonstrators with his car, injuring five people.⁵² The third case occurred at a bullfight in the bullring of Los Santos de la Humosa in Madrid during which two animal rights activists were assaulted by several of the attendees, including a councillor of the Popular Party (PP).⁵³ In the case of the Barcelona hit-and-run, the Mossos d'Esquadra regional police stopped the aggression and identified the driver, but in the Madrid cycling march, it was the driver himself who denounced the protesters. The consequences in the case of the anti-bull fighting activists are still unknown.

Online hate speech including racist, misogynistic, homophobic, transphobic and Islamophobic attacks, particularly on X, remain an issue. There has been an observable normalisation of certain hate messages in public spaces and online. The presence of extreme right-wing parties, such as Vox and Aliança Catalana, in public institutions and administration has further contributed to this trend. Thus, due to the simplification of hate speech, it is increasingly common for the persons behind the attacks to no longer hide behind anonymity. At the same time, social media technology companies are increasingly shirking their responsibilities by using automated content moderation and permitting hate speech as freedom of expression.

One example is the wave of discursive violence against transgender people, mainly through social media, but also via traditional media and by certain organisations. The approval of the so-called "Trans Law" in the Spanish Congress of Deputies, which aims to protect some transgender rights, has placed the trans community at the centre of public debate and provoked increasingly hateful messages towards them and transphobic attacks, harassment and assaults offline.

⁵¹ <https://www.elperiodico.com/es/barcelona/20230308/8-m-caos-traffic-barcelona-manifestaciones-diagonal-,eridiana-84265496>

⁵² <https://www.madridiario.es/coche-arrolla-grupo-ciclistas-bicicritica>

⁵³ <https://elpais.com/espana/madrid/2023-05-05/el-numero-dos-del-pp-de-los-santos-de-la-humosa-arrastra-por-la-plaza-de-toros-a-una-activista-antitaurina.html>

Another example are the hate campaigns against migrants which has multiplied on social media and been fuelled by disinformation by some media outlets and certain political profiles and parties. This takes place in a context where far-right parties, such as Vox, Aliança Catalana or Frente Obrero, have tried to distort information to create discriminatory narratives that scapegoat migrants for all problems. The coordinated attack on the headquarters and premises of migrants' associations that took place in Barcelona at the beginning of December is an example of these hate campaigns.

Women and LGBTIQ+ rights movements also face police violence, attacks and hate crimes. Throughout 2023, more than 50 activists from these groups have faced repressions for participating in mobilisations and more than half of them were arrested. Most of the cases have been in the context of protest. This was the case during the feminist strike in the Basque Country where at least seven activists were arrested and around thirty were identified by the police.⁵⁴ Police initiated a court case against LGBTIQ+ activists who protested in Barcelona against the presentation of a transphobic book.⁵⁵

The Spanish legislation is ambiguous when it comes to tackling hate speech which makes it difficult to prosecute certain incidents. However, in 2023 there was some progress in terms of jurisprudence. For example, seven people in Malaga were convicted for spreading online hate speech against unaccompanied migrant minors.⁵⁶

These physical, verbal and online attacks, assaults and harassment as well as criminal records and disproportionate fines evidently cause psychological and financial burdens for civic actors. It contributes to demobilisation and creates a chilling effect on civil society. However, mutual support groups and platforms and organisations have emerged in Spain with the aim to provide psychosocial support and protection to human rights and environmental defenders.

⁵⁴ <https://www.elsaltodiario.com/euskal-herria/piquetes-donostia-cuidados-huelga-general-feminista>

⁵⁵ <https://elpais.com/espana/catalunya/2022-05-16/los-mossos-cargan-contra-activistas-que-querian-paralizar-la-presentacion-de-un-libro-critico-con-la-teoria-queer.html>

⁵⁶ <https://www.publico.es/sociedad/condenan-prision-siete-personas-incitar-violencia-menores-migrantes-melilla-traves-facebook.html>

Funding for civil society

The excessive bureaucratisation and the reduction in economic resources allocated to civil society organisations continue to pose significant barriers to the effective participation of civic actors in upholding the rule of law. Those working more autonomously without state funding, whether organisations or social movements, find themselves increasingly overwhelmed by the social and economic challenges facing the country.

Civil dialogue and the right to participation

During 2023, the trust in the civil society sector has been high which has led to continuing political and social advocacy processes that were not considered in previous years. Despite this, civil dialogue has been insufficient and opaque. Some legislative processes have been carried out without consulting civil society, exclusively through negotiations between political parties. One example was the missed opportunity to reform the Gag Law. Civil society organisations defending human rights had very few opportunities to engage in open public dialogue with the government to express their demands.

Overall, the institutions have not been pioneering in strengthening civic space. One of the few positive measures was the new mechanism for citizen participation inaugurated by Barcelona City Council in 2023 under the name "Decidim.Barcelona". This is a system to promote civil society initiatives and neighbourhood proposals which, after collecting a certain number of signatures, are directly included on the agenda of the city council's meetings. Although it is an innovative initiative, it has not been widely implemented and it is too early to assess its impact.

The last session of the first Citizens' Climate Assembly (ACC) organised by the Spanish government was held in May 2022. In some regions it has been more extensive, as was the case in Barcelona,

where the Citizens' Climate Assembly process began in April with the selection of participants and twelve face-to-face participatory sessions were held between September 2022 and January 2023. The process ended with recommendations which were handed over to the City Mayor and representatives of the political groups. Catalonia has had a Citizens' Assembly since 2023. It is made up of 100 citizens chosen by lot who analyse, discuss and draw up proposals on how to address and adapt to tackle climate change.⁵⁷ They tackled two specific challenges: renewable energy and agriculture. After the process, the Assembly will hand over recommendations to the Generalitat, which will evaluate them.

Civil society resilience

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⁵⁷ https://www.eldiario.es/catalunya/pablo-migrante-29-anos-sera-voz-lucha-cambio-climatico_1_10731224.html

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Recommendations

Targeted recommendation:

- 🔍 Urgently reform of the Penal Code to guarantee the exercise of the right to peaceful assembly and to ensure that it cannot be investigated and prosecuted under the indirect attribution of crimes of terrorism or of criminal organisation and to guarantee the protection of the freedom of expression.

- 🔍 **Ensure that civil society, communications and journalism professionals, human rights observers, activists, and human rights organisations, among others, can record and monitor the conduct and actions of the security forces and bodies of the state with public order functions, which include the recording of police conduct in the context of protests.**

- 🔍 **Refrain from the use of excessive force against protesters, journalists and marginalised groups and respect the right to peaceful assembly**

- 🔍 **Guarantee 360-degree identification of all police officers, with public order (anti-riot) management functions of the Security Forces and Corps (FCS) by ensuring that the identification number is easily remembered and visible – both in terms of typography, numbering and size – from all angles, placing it in front and behind the visible parts and on the sides of the helmet.**

- 🔍 **Stop police infiltration and the use of spyware against social movements, human rights and environmental defenders, journalists, lawyers and political opposition and urgently hold police officers to account for infiltration.**

- 🔍 **Urgently carry out independent, exhaustive and effective investigations into the seven uncovered cases of police agents infiltrating social movements in the State.**

- 🔍 **Take necessary measures to guarantee a restorative and effective process for the people and movements affected by infiltration operations and guarantee that these types of operations are not repeated in the future.**

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- 🔍 **Implement the recommendations of the PEGA Committee of the European Parliament on the use of spyware against civil society actors by Spanish authorities and adopt an appropriate legal framework for its use.**
- 🔍 **Refrain from using anti-terrorism legislation to persecute and repress civic actors. Immediately drop the charges of terrorism for human rights and environmental defenders charged at the moment.**
- 🔍 **Develop an internal instruction for both police and prosecutors through which the interpretation of terrorist crimes is adapted to state and international jurisprudence, as well as international human rights law. This modification should avoid the categorization of “terrorism” or “criminal organisation” of social or political movements along with different expressions of the right to protest.**
- 🔍 **Urgently reform 2015 Penal Code which allows for an exceptional and disproportionate expansion of these crimes “terrorism” or “criminal organisation” for legal operators.**
- 🔍 **Carry out a reform of the Penal Code in all those articles (article 525 & 578) that threaten freedom of expression.**
- 🔍 **Prohibit the use of rubber bullets by the State Security Forces, taking into account their harmful potential, their uncontrollable and indiscriminate nature and their lack of traceability which puts the exercise of fundamental rights and integrity at risk.**
- 🔍 **Create an investigative commission to clarify the cases related to the people affected by these projectiles and to evaluate the impact caused on civil society, in addition to activating the appropriate remedial measures.**
- 🔍 **Prohibit the use of foam bullets by the Mossos d'Esquadra, the Ertzaintza and the Navarra Foral Police.**
- 🔍 **Adapt the transparency policy of police forces to international standards on the matter, guaranteeing that protocols for the use of force are published and accessible to allow civil society to supervise their use.**



About European Civic Forum

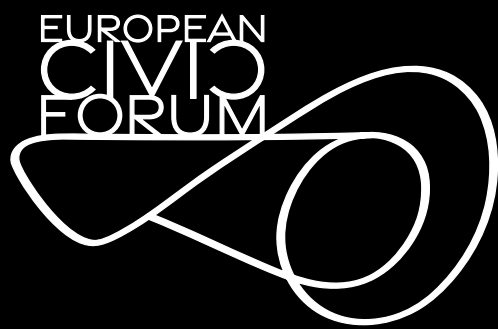
European Civic Forum (ECF) is a pan-European network of more than 100 associations and NGOs across 30 European countries,

Founded in 2005 by our member organisations, we have spent nearly two decades working to protect civic space, enable civic participation and build civil dialogue for more equality, solidarity and democracy in Europe.



About Civic Space Watch

Civic Space Watch collects findings and analyses from actors in Europe on the conditions for civil society to operate, capturing national and trans-European trends in civic space. Through ongoing monitoring of social media and regular contact and interviews with a strong network of members and partners on the ground, we strive to provide easy access to resources and improve information sharing within civil society across Europe.



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