



FREEDOM IN THE WORLD 2020

Spain

FREE

92

/100

<u>Political Rights</u>	38/40
<u>Civil Liberties</u>	54/60

LAST YEAR'S SCORE & STATUS

94/100 **Free**

Global freedom statuses are calculated on a weighted scale. See the methodology.



Overview

Spain's parliamentary system features competitive multiparty elections and peaceful transfers of power between rival parties. The rule of law prevails, and civil liberties are generally respected. Although political corruption remains a concern, high-ranking politicians and other powerful figures have been successfully prosecuted. Restrictive legislation adopted in recent years poses a threat to otherwise robust freedoms of expression and assembly. A persistent separatist movement in Catalonia represents the leading challenge to the country's constitutional system and territorial integrity.

Key Developments in 2019

- Prime Minister Pedro Sánchez of the center-left Spanish Socialist Workers' Party (PSOE) called snap elections for April after the parliament rejected his minority government's budget bill in February. The PSOE led the voting but was unable to form a governing majority, prompting new elections in November. It then struck a coalition agreement with the left-wing party Unidas Podemos, bringing it closer to a majority, but a new government had yet to take office at year's end.
- The far-right party Vox won its first parliament seats in the April elections and more than doubled its representation in November, becoming the third-largest faction in the lower house.
- In October, nine Catalan separatist leaders were sentenced to prison terms of up to 13 years in connection with an illegal 2017 referendum on independence for Catalonia. International bodies faulted Spanish authorities for violating defendants' rights in certain aspects of the case.

Political Rights

A. Electoral Process

A1 0-4 pts

Was the current head of government or other chief national authority elected through free and fair elections?

4/4

Following legislative elections, the monarch selects a candidate for prime minister, generally the leader of the party or coalition with a majority in the lower house. The parliament then votes on the selected candidate.

Prime Minister Sánchez's minority government, which had taken power through a no-confidence vote in the parliament in 2018, failed to win passage for a budget bill in February 2019, and snap elections were scheduled for April. The ruling PSOE won a plurality of seats but could not secure the majority needed for a new government, triggering repeat elections in November. The PSOE again fell short of a majority, even after it reached a coalition agreement with Unidas Podemos; at year's end they were seeking additional support from Basque and Catalan nationalist lawmakers before submitting their proposed government for a vote in the parliament.

A2 0-4 pts

Were the current national legislative representatives elected through free and fair elections?

4/4

The lower house of Spain's bicameral parliament, the Congress of Deputies, is composed of 350 members elected in multimember constituencies for each of Spain's provinces, with the exception of the North African enclaves of Ceuta and Melilla, each of which has one single-member constituency. The Senate has 266 members, 208 of whom are elected directly, and 58 of whom are chosen by regional legislatures. Members of both chambers serve four-year terms.

Spain's legislative elections are generally considered free and fair. In the April 2019 parliamentary elections, the PSOE won 123 lower house seats, the conservative Popular Party (PP) placed a distant second with 66, the center-right Ciudadanos took 57, Unidas Podemos took 42, and the new far-right nationalist party Vox won 24, marking the first time since Spain's transition to democracy in 1975 that a far-right party had secured significant representation in the national legislature. Smaller parties, including Catalan and Basque nationalist groups, collected the remainder. In the Senate, the PSOE won a majority of seats.

After the divided lower house was unable to agree on a government, new elections were held in November. This time, the PSOE secured 120 seats, followed by the PP with 88, Vox with 52, Unidas Podemos with 35, and Ciudadanos with 10. Among several other parties, the Basque Nationalist Party (PNV) and the Republican Left of Catalonia–Sovereignists (ERC–Sobiranistes) won 7 and 13 seats, respectively. In the Senate, the PSOE took 92 seats and the PP won 84.

Local, regional, and European Parliament elections were held in May 2019. Vox continued to gain ground, entering local and regional legislatures in various parts of the country. At the municipal level, the PP and Ciudadanos struck a deal to govern Madrid with support from Vox, replacing a left-leaning coalition. The PSOE won a plurality of the seats at stake in the European Parliament voting.

A3 0-4 pts

Are the electoral laws and framework fair, and are they implemented impartially by the relevant election management bodies?

4/4

Spain's constitution and electoral laws provide the legal framework for democratic elections, and they are generally implemented fairly.

The initiation and conduct of the October 2017 independence referendum in Catalonia featured a number of fundamental flaws. The exercise was prohibited by the courts on constitutional grounds, and the actions of both regional authorities

and the central government contributed to a chaotic environment that did not allow for fair and transparent balloting. However, after the regional government was dissolved that month, elections were held in December, and a new separatist-led government was formed in May 2018, largely restoring normal electoral and constitutional conditions even if the underlying dispute remained unresolved.

B. Political Pluralism and Participation

B1 0-4 pts

Do the people have the right to organize in different political parties or other competitive political groupings of their choice, and is the system free of undue obstacles to the rise and fall of these competing parties or groupings?

4/4

Citizens are free to organize political parties, which are able to function without interference in practice. While the PP and the PSOE once dominated the political system, corruption scandals, persistent economic woes, and the dispute over Catalonia have aided the rise of new alternatives in recent years, including Unidas Podemos and Más País on the left and Ciudadanos and Vox on the right.

B2 0-4 pts

Is there a realistic opportunity for the opposition to increase its support or gain power through elections?

4/4

There have been multiple democratic transfers of power between rival parties since Spain returned to democracy in the late 1970s. The PSOE government that took office in 2018 ended more than six years of PP rule.

B3 0-4 pts

Are the people’s political choices free from domination by forces that are external to the political sphere, or by political forces that employ extrapolitical means?

4/4

Voting and political affairs in general are largely free from undue interference by unelected or external forces. However, disinformation and other such manipulation in elections is a growing concern. In May 2019, the Constitutional Court struck down provisions of a data protection law adopted in December 2018 that allowed political parties to collect personal data from websites and social media platforms in order to deliver customized political messaging.

B4 0-4 pts

Do various segments of the population (including ethnic, religious, gender, LGBT, and other relevant groups) have full political rights and electoral opportunities?

4/4

Women and minority groups enjoy full political rights. Women are free to advocate for their political interests, and they are relatively well represented in practice, holding 43 and 38 percent of the seats in the Chamber of Deputies and the Senate, respectively.

Spain’s system of regional autonomy grants significant powers of self-governance to the country’s traditional national minorities, including Catalans and Basques.

Some of the Catalan officials and activists who were charged with offenses such as rebellion, sedition, and misuse of public funds as a result of the illegal 2017 referendum remained in pretrial detention for much of 2019. In October, nine of them received prison terms of up to 13 years for sedition, and three others received fines for the lesser charge of disobedience; none were convicted of rebellion, the most serious charge. Others facing charges, including former Catalan president Carles Puigdemont, remained outside the country. One of the nine, politician Oriol Junqueras, was elected to the European Parliament in May 2019 while in pretrial

detention, but Spanish authorities denied him the right to go to Brussels and take his seat. In December, the Court of Justice of the European Union ruled that his parliamentary immunity had been violated as a result of the continued pretrial detention, though it was unclear at year's end whether he would be released given his October conviction and prison sentence. Separately, incumbent Catalan president Quim Torra was convicted in December of disobeying orders from the National Electoral Board to remove separatist symbols and banners from public buildings; a ruling on whether he would be forced from office was pending at year's end.

C. Functioning of Government

C1 0-4 pts

Do the freely elected head of government and national legislative representatives determine the policies of the government?

3/4

Elected officials are generally free to make and implement laws and policies without undue interference. However, the political system has failed to produce a stable governing majority in the parliament since 2015, resulting in frequent and inconclusive elections, a sharp decline in the passage of legislation, and an increased use of mechanisms like executive decrees to advance the government's agenda without the approval of lawmakers. The instability has also hampered the central government's capacity to address the separatist movement in Catalonia in an effective manner. These problems were especially acute in 2019, with Prime Minister Sánchez governing in a caretaker capacity from the dissolution of the parliament in March through the end of the year, despite two rounds of elections in April and November.

Score Change: The score declined from 4 to 3 because lawmakers were unable to form a majority government despite two elections, leaving a caretaker government in place for most of the year.

C2 0-4 pts

Are safeguards against official corruption strong and effective?	3/4
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Concerns about official corruption often center on party financing. Though most party expenses are funded by the state, a 2007 law allowed political parties to use commercial bank loans. In 2012, Spain strengthened rules on political financing by restricting access to loans, increasing transparency, and establishing an audit framework. In 2015, new legislation prohibited banks from forgiving debt owed by political parties.

Although the courts have a solid record of investigating and prosecuting corruption cases, the system is often overburdened, and cases move slowly. Among other high-profile proceedings during 2019, two former presidents of the region of Madrid were accused of involvement in the illegal financing of the PP. In November, two former regional presidents from the PSOE were convicted of abuse of power for misusing €680 million (\$750 million) in government funds designated for unemployed workers over the course of a decade.

C3 0-4 pts

Does the government operate with openness and transparency?	4/4
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Legal safeguards to ensure government transparency include asset-disclosure rules for public officials and laws governing conflicts of interest. The Transparency Act, which took effect in 2014, is meant to facilitate public access to government records, though freedom of information activists have reported onerous procedures and called for improvements to the law, as well as mechanisms to access more judicial and parliamentary documents.

In an important ruling for freedom of information, the Transparency Council in September 2019 required the government to release a list of approximately 30,000 properties registered to the Roman Catholic Church, though the government submitted an appeal in November. In another case in December, the Supreme Court ruled that the Court of Auditors had violated the right to information by refusing to provide a list of temporary public workers and ordered the list to be released.

Civil Liberties

D. Freedom of Expression and Belief

D1 0-4 pts

Are there free and independent media?	3/4
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Spain has a free press that covers a wide range of perspectives and actively investigates high-level corruption. However, consolidation of private ownership and political interference at public outlets pose threats to media independence. In 2019, the renewal of the board of directors of the public broadcaster through a competitive process was stalled by the year's parliamentary elections, and it remained incomplete at year's end. Separately, the leaders of the regional public broadcaster in Catalonia were charged with disobedience in April for using the outlet as a platform to promote the illegal 2017 independence referendum.

Several journalists have faced aggression from protesters and the police while reporting on Catalonia. For example, one journalist from *El País* was temporarily detained by police in October 2019, and other journalists were assaulted by independence supporters during protests that month.

The Council of Europe and media freedom organizations have raised concerns about the protection of confidential sources following incidents in 2018 and 2019 in which the police and courts seized materials and phone records from media organizations covering corruption cases.

A controversial public safety law that took effect in 2015, nicknamed the “gag law” by its critics, established large fines for offenses including spreading images that could endanger police officers or protected facilities. Journalists have faced penalties in practice for alleged violations of the law while reporting on police actions.

A new law on intellectual property took effect in March 2019. It drew objections from media organizations, consumer groups, and intellectual property experts, who noted that it allowed a government commission to close websites without a judge’s approval under certain circumstances.

D2 0-4 pts

Are individuals free to practice and express their religious faith or nonbelief in public and private?

4/4

Religious freedom is guaranteed in the constitution and respected in practice. As the country’s dominant religion, Roman Catholicism enjoys benefits not afforded to others, such as financing through the tax system. However, the religious organizations of Jews, Muslims, and Protestants also have certain privileges through agreements with the state, including tax exemptions and permission to station chaplains in hospitals and other institutions. Other groups that choose to register can obtain a legal identity and the right to own or rent property. The penal code contains a provision to punish blasphemy, but prosecutions are rare in practice.

D3 0-4 pts

Is there academic freedom, and is the educational system free from extensive political indoctrination?

4/4

The government does not restrict academic freedom in law or in practice.

D4 0-4 pts

Are individuals free to express their personal views on political or other sensitive topics without fear of surveillance or retribution?

3/4

Private discussion remains open and vibrant, but more aggressive enforcement of laws banning the glorification of terrorism has begun to threaten free speech, with dozens of people—including social media users and several performers—found guilty in recent years for what often amounts to satire, artistic expression, or political commentary. In 2017, the Supreme Court ruled that a person could violate the law even if there was no intention to “glorify” a terrorist group or “humiliate” its victims.

Individuals have also been prosecuted for insulting the monarchy and other state institutions. In 2018, a famous humorist was charged with “outrage to the flag,” and a satirical magazine was charged with insulting the authorities. Although both cases were dismissed in 2019, they added to concerns about a possible chilling effect on expression by ordinary people.

E. Associational and Organizational Rights

E1 0-4 pts

Is there freedom of assembly?

3/4

The constitution provides for freedom of assembly, and the authorities typically respect this right. However, the public safety act that took effect in 2015 imposed a number of restrictions, including fines of up to €600,000 (\$680,000) for participating in unauthorized protests near key buildings or infrastructure. Participants in protests on a variety of local concerns have faced smaller but still substantial fines under the law in practice.

Two of the Catalan independence leaders convicted of sedition in October 2019, Jordi Cuixart and Jordi Sànchez, were prosecuted for leading protests aimed at preventing police from halting the banned 2017 referendum. None of the 12 defendants in the case were convicted of rebellion, the most serious charge; a UN special rapporteur had warned in 2018 that “charges of rebellion for acts that do not involve violence or incitement to violence may interfere with rights of public protest.” Human rights groups similarly argued that the 2019 prison sentences for sedition were excessive and set a harmful example regarding freedom of assembly. After the sentences were announced, protests erupted in different cities across Catalonia, in some cases drawing an aggressive police response and resulting in physical altercations.

E2 0-4 pts

Is there freedom for nongovernmental organizations, particularly those that are engaged in human rights– and governance-related work?

4/4

Domestic and international nongovernmental organizations operate without significant government restrictions.

E3 0-4 pts

Is there freedom for trade unions and similar professional or labor organizations?

4/4

With the exception of members of the military and national police, workers are free to organize in unions of their choice, engage in collective bargaining, and mount legal strikes.

F. Rule of Law

F1 0-4 pts

Is there an independent judiciary?	4/4
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The constitution provides for an independent judiciary, and the courts operate autonomously in practice. However, the Council of Europe has criticized the fact that under current law, the 12 judges who sit on the 20-member General Council of the Judiciary—which oversees the courts and ensures their independence—are not directly elected by their peers, but appointed through a three-fifths vote in the parliament, as with the other eight members who are not judges.

F2 0-4 pts

Does due process prevail in civil and criminal matters?	3/4
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The authorities generally observe legal safeguards against arbitrary arrest and detention, though judges can authorize special restrictions on communication and delayed arraignment for detainees held in connection with acts of terrorism. Defendants typically enjoy full due process rights during trial. However, two high-profile cases related to Basque and Catalan nationalism in 2019 featured flaws that drew criticism from international organizations.

In October 2019, the Supreme Court confirmed significant prison sentences for a group of eight young people in the Basque region who were originally convicted of crimes against the authorities with an ideological motive. They had been involved in

a 2016 bar fight with two off-duty police officers. Most of the defendants were held in pretrial detention and initially accused of terrorism offenses. While the Supreme Court lowered the prison terms from between two and 13 years to between 18 months and nine and a half years, Amnesty International had criticized the entire process, citing a lack of impartiality and the use of exaggerated charges.

The prosecution of the 12 Catalan separatist leaders that ended in convictions for sedition and disobedience in October 2019 was also criticized for due process violations. In May, the UN Working Group on Arbitrary Detention stated in a report that the pretrial detention of three of the defendants was arbitrary and unjustified and that it breached their right to a presumption of innocence. The December judgment by the Court of Justice of the EU, finding that defendant Oriol Junqueras should have been released following his election to a seat in the European Parliament, similarly focused on improper detention. Human rights groups had also noted flaws in the trial proceedings and objected to the use of ill-defined charges like sedition for some of the acts in question, arguing that they disproportionately punished peaceful civil disobedience.

Score Change: The score declined from 4 to 3 because of due process violations in some prominent cases, particularly the prosecution of Catalan separatist leaders.

F3 0-4 pts

Is there protection from the illegitimate use of physical force and freedom from war and insurgencies?

4/4

The population faces no major threats to physical security. The potential for terrorist attacks by radical Islamist groups remains a concern, though Basque Fatherland and Freedom (ETA), a separatist group that carried out terrorist attacks for decades, announced in 2018 that it had formally dissolved, having ended its armed activity several years earlier.

Prison conditions generally meet international standards, but short-term internment centers for irregular migrants suffer from overcrowding and other problems.

F4 0-4 pts

Do laws, policies, and practices guarantee equal treatment of various segments of the population?

3/4

Women, racial minorities, and LGBT+ people enjoy legal protections against discrimination and other mistreatment, though a degree of societal bias persists. Women continue to face inequities in employment and compensation, while some minority groups—including Roma—remain economically marginalized and are allegedly subject to police profiling.

Spain is a major point of entry to Europe for irregular migrants and refugees, though the number of arrivals declined in 2019. Some 26,000 people crossed the Mediterranean to reach Spain during the year, less than half the 2018 number. Thousands of migrants and refugees also congregate at the land border between Morocco and the Spanish enclaves of Ceuta and Melilla. In 2017, the European Court of Human Rights found that Spain's practice of summarily expelling those who manage to cross the border fence is unlawful under the European Convention on Human Rights. Such expulsions were authorized by the public safety act that took effect in 2015, and they continued to occur during 2019.

G. Personal Autonomy and Individual Rights

G1 0-4 pts

Do individuals enjoy freedom of movement, including the ability to change their place of residence, employment, or education?

4/4

There are no significant restrictions on individuals' freedom to travel within the country or abroad, or to change their place of residence, employment, or education.

G2 0-4 pts

Are individuals able to exercise the right to own property and establish private businesses without undue interference from state or nonstate actors?	4/4
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The legal framework supports property rights, and there are no major restrictions on private business activity.

G3 0-4 pts

Do individuals enjoy personal social freedoms, including choice of marriage partner and size of family, protection from domestic violence, and control over appearance?	4/4
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Personal social freedoms are generally respected. Same-sex marriage has been legal in Spain since 2005, and same-sex couples may adopt children.

There are legal protections against domestic abuse and rape, including spousal rape; while both remain problems in practice, the government and civil society groups work actively to combat them. In 2018, five men were acquitted of rape and convicted on a lesser charge of sexual abuse in a high-profile 2016 case in Pamplona, but in June 2019 the Supreme Court found the men guilty of rape and sentenced them to 15 years in prison. The case fueled calls to change the law so that specific evidence of physical violence or intimidation accompanying a sexual assault would not be needed to secure a rape conviction.

G4 0-4 pts

Do individuals enjoy equality of opportunity and freedom from economic	
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exploitation?

3/4

Residents generally have access to economic opportunity and protection from exploitative working conditions. Despite strong antitrafficking efforts by law enforcement agencies, however, migrant workers remain vulnerable to debt bondage, forced labor, and sexual exploitation.

The level of income inequality in Spain is among the worst in the European Union. The unemployment rate is still high for the region, though it has been on the wane, falling to approximately 14 percent toward the end of 2019.



On Spain

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Country Facts

Global Freedom Score

92/100 Free

Other Years

2019

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