



FREEDOM OF OPINION AND  
EXPRESSION AND  
SUSTAINABLE DEVELOPMENT  
- WHY VOICE MATTERS

RESPONSE TO CALL FOR INPUT

SUBMISSION TO THE THEMATIC REPORT OF  
THE SPECIAL RAPPOREUR ON FREEDOM OF  
OPINION AND EXPRESSION TO THE UN HUMAN  
RIGHTS COUNCIL

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## Introductory Note

This submission was prepared by the participants of the university course “International Human Rights Protection” at ESADE, University Ramon Llull in Barcelona during the fall term 2022/2023. The participants conducted independent research on different aspects requested in the call for input of the Special Rapporteur.

Participants who agreed to the inclusion of their names in this submission:

Adroher Camino, Berta  
Amorós Xicoira, Maria Mei  
Bongiovanni, Michela  
Brun Sancho, Clàudia  
Garcés Ramos, Lucas  
Giró Aguirre, Ainhoa  
Guardiola Valero, Jan  
Llecha Garcia, Davínia  
Lozano Oliver, Maria  
Monfort Fabregat, Sònia  
Monrabal Morata, Carlota  
Moya Miche, Flavia  
Muñoz Verdaguer, Duna-Alexandra  
Nathani Harwani, Karina  
Ortolano, Mariana

Ouerdi, Nassim  
Parellada Vall, Berta  
Pascual Marín, Cecilia  
Peters, Neeltje  
Reitg Gil, Emma  
Rocher Sastre, Sara  
Rubio Bergua, Maria  
Sallent Roca, Clara  
Santa María Manrique, Brenda  
Sitjar Armisén, Berta  
Soler Casado, Carlota  
Szwec, Julia  
Torras Seró, Marta  
Xing Lu, Huichao  
Zaragoza Martinez, Carla

Course instructor: Knut Traisbach

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## A. Freedom of Expression and Information in Spain

Spain is a constitutional monarchy and a member of both the European Union and the Council of Europe. It has ratified most human rights treaties on the regional and international level. Thus, the protection and promotion of freedom of expression is guaranteed in Spain through an interconnected system that combines domestic, regional and international protection and enforcement mechanisms.

### 1. National Setting

Domestically, the right to freedom of expression is enshrined in Art. 20 of the Spanish Constitution of 1978 within the category of fundamental rights and freedoms. Article 20.1.d of the Constitution refers to the rights to spread ('comunicar') information and to receive *truthful* information ('información veraz'). This freedom is directly related to public life and to the construction of a democratic society in which everyone is given the possibility to develop and express their opinion.

The constitutional guarantee has been further developed through more specific regulations addressing particular contexts, such as the professional sphere or the digital sphere. For example, Law 14/1996 of 18 March 1996 on **Press and Printing** aims at achieving the maximum possible development and deployment of the freedom of the individual to express their thoughts and receive information. Similarly, we find Law 3/2018 of 5 December 2018 on **Personal Data Protection and the Guarantee of Digital Rights**, which regulates provisions related to the right to freedom of expression on the Internet, including limits to which it may be subjected.

Particularly related to the **right to receive information** is the **Law on Transparency and Good Governance** (Ley de transparencia y buen gobierno) which was approved in 2013. Its preamble establishes that the aims are (1) to reinforce transparency in the public sector, hence this law applies to all entities subjected to Spanish Public Law; (2) to guarantee that public servants are subjected and adhere to specific obligations in order to guarantee transparency; and (3) to guarantee that citizens have **access to information** regarding the activities and decision-making of public authorities.

As this reports illustrates also later (section C.1), there is an intrinsic link between sustainable development and freedom of expression and to receive information but also to the correlative right to privacy, as the private sphere is where opinions can be freely discussed and ideas tested before they are expressed publicly. It is where a common opinion in society may crystallize.<sup>1</sup>

Article 20.4 of the Constitution establishes **limits** for both freedoms and gives special importance to the 'right to honor, to privacy, to one's own image and to the protection of youth and childhood'. Furthermore, the information received must be **truthful**, which must be interpreted subjectively: the person transmitting the information must be diligent in trying to ascertain whether the information is factual or not. Hence, a piece of information is a

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<sup>1</sup> See, e.g., Judgment of the Spanish Constitutional Court 292/2000, 30 November 2000.

narrative of facts and it is ‘truthful’ when it is supported with data and proof.<sup>2</sup> For this reason, social media users, when publishing information online, are considered to be in a similar position as journalists:<sup>3</sup> they must tell facts and support them up with data. A clear example of the right to receive truthful information is the case of a woman who tweeted to have been physically assaulted, identifying the man and describing him as an ‘abuser’.<sup>4</sup> The Spanish Constitutional Court established that this description could be considered a narrative of facts – thus the woman was disseminating information – but the information did not seem to be truthful due to the lack of proof. Consequently, the potentially misleading information spread by the woman made it necessary to balance the right to receive truthful information with the right to honor: her followers could be receiving false information and the image of the man could be unnecessarily damaged.

## 2. European Union

As a member of the EU, Spain is embedded in numerous legal and institutional mechanisms that also include the protection of the right to freedom to hold opinions and to receive and impart information of each EU citizen (Art. 11 Charter of Fundamental Rights of the European Union). Beyond guaranteeing individual rights, the EU is also active in protecting fundamental standards of the rule of law and good governance, including a free press and the protection against disinformation and ‘fake news’.

On the EU level we can highlight the **EU Anti-Money Laundering Directive (AMLD)**,<sup>5</sup> the **General Data Protection Regulation**, or the **Directive on Corporate Sustainability Due Diligence** which is currently going through the European legislative process. The latter directive aims to ensure that businesses address adverse human rights and environmental impacts of their actions, including activities in their value chains inside *and outside* Europe. A central aspect of this regulation is the provision of information *inter alia* on business activities, including potential harm, possible victims and on remedy mechanisms. As expected, the directive is hard fought over and has seen strong lobbying from the business sector to water down binding obligations.<sup>6</sup>

This brings us to an example where the EU aims at increasing transparency and the public’s access to information. The **European Union Transparency Register for Anti-Corruption** is a register of organizations that are active at the EU level in lobbying activities.<sup>7</sup> Its purpose is to provide information to the public on the activities of organizations that seek to influence the EU policy-making process. All groups that engage in lobbying, including those that

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<sup>2</sup> Judgment of the Spanish Constitutional Court 65/2015, 13 April 2015.

<sup>3</sup> Judgment of the Spanish Constitutional Court 8/2022, 27 January 2022.

<sup>4</sup> Ibid.

<sup>5</sup> Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing.

<sup>6</sup> J. McArdle, G. Cioffo, S. Obregon, ‘How Berlin and Paris sold-out the EU corporate due diligence law’ (EU Observer, 1 December 2022) <<https://euobserver.com/opinion/156491>>; Human Rights Watch, ‘EU: Disappointing Draft on Corporate Due Diligence’ <<https://www.hrw.org/news/2022/02/28/eu-disappointing-draft-corporate-due-diligence>>.

<sup>7</sup> European Commission, Transparency Register <<https://ec.europa.eu/transparencyregister/public/the-european-commission/en>>.

represent business and industry, trade associations, the academic and legal community, think tanks, and civil society organizations, are *invited* to join the register. All organizations that are registered are required to report their activities, including names of their lobbyists, the nature of their activities and their contact information. In addition, registered organizations must provide information on the financial resources they have at their disposal to carry out their activities.

Since registration is voluntary, the European Parliament, the Council of the European Union and the European Commission as well as other EU institutions can adopt *conditionality measures* through which they can “make certain interest representation activities conditional upon prior registration in the Transparency Register”.<sup>8</sup> In this context, the EU could increase the effectiveness of this register by making registration broadly compulsory and by introducing a stricter reporting obligation that encompasses information on how, when and why registered entities have interacted with EU institutions. Here, also modern technologies could increase the scope and ease of access to the information contained in the register.

### 3. Council of Europe

Spain joined the Council of Europe in 1977. One needs to emphasize the interdependence between the Sustainable Development Goals (SDGs) and the missions of the Council of Europe. In fact, the functions of the European Social Charter (ESC) of 1961 (now in the revised version of 1996) and the European Convention on Human Rights (ECHR) of 1950 are complementary to the SDGs. For example, the prohibition of discrimination is guaranteed under Article 14 ECHR, and addressed in Article 17 ESC regarding matters of “employment with equal treatments and opportunities”, fortifying SDG no. 10 on “reduced inequalities”. Article 10 of the ECHR on freedom of expression is complemented in the Charter under the workers' right to information, strengthening SDG number 8 on “Decent Work and Economic Growth”. Spain has submitted 34 reports under the ESC and ratified in 2021 also the Additional Protocol on collective complaints under the ESC, making Spain the only State accepting all 98 paragraphs of the revised ESC.

There are several cases before the European Court of Human Rights involving Spain and violations of **freedom of expression (Art. 10 ECHR)**.<sup>9</sup> Freedom of expression has become a contentious issue in situations involving the treatment of national minorities in the Basque country or in Catalonia.<sup>10</sup> This issue has also been raised by a UN Special Rapporteur on minority issues, Mr Fernand de Varrenes, in his report from 9 March 2020.<sup>11</sup> He emphasized the fact that minorities shall have a right to peacefully express their views on the regime of

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<sup>8</sup> See

<https://ec.europa.eu/transparencyregister/public/staticPage/displayStaticPage.do?reference=CONDITIONALITY&locale=en>.

<sup>9</sup> See Council of Europe, ‘Country profiles : Spain and the European Social Charter’ <https://www.coe.int/en/web/european-social-charter/spain>.

<sup>10</sup> See, e.g., *Erkizia Almandoz v. Spain*, App no. 5869/17, 22 June 2021; *Castells v. Spain*, App no. 11798/85, 23 April 1992; *Jiménez Losantos v. Spain*, App no. 53421/10, 14 June 2016.

<sup>11</sup> Report of the Special Rapporteur on minority issues’ A/HRC/43/47/Add.1; 9 March 2020 <https://documents-dds-ny.un.org/doc/UNDOC/GEN/G20/063/88/PDF/G2006388.pdf?OpenElement>.

Spain and recommended the Spanish Government to continue to reform legislation that criminalizes acts of peaceful disobedience and stipulates punishments for the exercise of the freedom of expression by national minorities.<sup>12</sup>

Also in response to judgments by the European Court of Human Rights, Spain has already started reforming its national laws regarding freedom of expression. One of the latest reforms of the Spanish Criminal Code tackles the offenses of sedition and embezzlement. This is a part of the current administration's intention to bring the interpretation and application of these offenses closer to other European countries.<sup>13</sup> The revised law entered into force on 12 January 2023, repealing the crime of sedition and reducing the crime of misuse of public funds.<sup>14</sup>

### **Venice Commission Opinion on Freedom of Expression in Spain**

On 9 October 2021, the Council of Europe Assembly requested the Venice Commission (European Commission for Democracy through Law) to issue an opinion on the Spanish Citizens Security Law (Law 4/2015) regarding its compatibility with the freedom of expression and assembly. The law officially intends to regulate police interventions in public demonstrations but the Venice Commission has found more possible applications of this law that can endanger some of the most basic human rights. Issues considered by the Commission include "regulations on checks and body searches in public places, policing of spontaneous demonstrations and liability of organisers thereof, severe administrative penalties provided by the Law and the rejection of aliens at the Spanish border in the autonomous towns of Ceuta and Melilla". For example, unregistered demonstrations can be fined with up to 600,000 EUR even if they are peaceful assemblies.

The Commission found the law to be very open to interpretation, which could lead to situations of abuse, as the law contains "a number of open-ended provisions which entrust the police with broad powers but do not indicate in which situations these powers may be used, or what sort of measures can be taken by the police". As a consequence the Commission asked the Spanish government to implement a series of safeguards in order to regulate and further specify permissible actions of police forces.

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<sup>12</sup> Ibid. para. 88.

<sup>13</sup> Spain to overhaul sedition law used to jail Catalan independence leaders' (2022) <<https://www.theguardian.com/world/2022/nov/11/spain-overhaul-sedition-law-used-jail-catalan-independence-leader-aggravated-public-disorder>>.

<sup>14</sup> 'Entra en vigor la reforma que suprime sedición y rebaja penas de malversación' (2023) <<https://www.lavanguardia.com/vida/20230112/8677332/entra-vigor-reforma-suprime-sedicion-rebaja-penas-malversacion.html>>.

## B. Sustainable Development: Gender Equality, Minorities, and Adequate Housing

### 1. Gender Equality

For this call for input, we will focus on **SDG no. 5: Gender Equality**. The Spanish government has strengthened the national Ministry for Equality and has passed or reformed legislative acts, such as the Law for effective equality between women and men (La Ley Orgánica 3/2007, de 22 de marzo, para la Igualdad Efectiva de Mujeres y Hombres) or the Law on Integral Protection Measures against Gender Violence (Ley Orgánica 1/2004, de 28 de diciembre, de Medidas de Protección Integral contra la Violencia de Género) which was a pioneer law in order to protect victims of gender-based violence.

We briefly point out two measures of the *Third Strategic Plan for Effective Equality of Women and Men 2022-2025* that relate to the use of **modern technologies and the facilitation of information and communication**.<sup>15</sup> Additional

initiatives can be found in the area of education where new forms of co-education and technology-driven delivery of content can increase access of women, minorities and marginalized groups to educational resources.

A first example is a specific helpline for women that are suffering from domestic abuse. This service offers – in addition to a dedicated telephone line – other channels such as email, online chat and WhatsApp. These services acquired great relevance during the COVID-19 pandemic, when a high number of communications were registered. In addition to being free of charge, the service is confidential and available 24 hours a day in 53 languages. There are three characteristics that help to address patterns of discrimination:

#### Info Box

Beside many other actors, both the UN High Commissioner for Human Rights and the European Union Agency for Fundamental Rights have emphasized that the right to freedom of opinion and expression is essential to the achievement of the Sustainable Development Goals (SDGs) as it enables citizens to access and share information, express their views, and participate in decision-making processes. The right to freedom of opinion and expression also helps to build trust and understanding between citizens, while providing a platform to share knowledge and resources.

In Spain, information and data has to be accessible, public, and free, always taking into account the fact that it should facilitate a clear understanding of the public to the furthest extent possible. This is regulated in laws such as Law 19/2013 on Transparency, Access to Public Information and Good Governance. Spain has also introduced mechanisms like a Transparency Portal and the Spanish General Access Point.

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<sup>15</sup> See, e.g., 'Empresas por una sociedad libre de violencia de género', whose goal is to raise awareness and encourage Spanish companies to adopt initiatives to combat gender violence. The webpage provides information on the different types of violence, the law and regulations regarding gender violence, as well as resources and advice for companies to take action. It also provides information on successful initiatives that have been implemented by companies; see <https://violenciagenero.igualdad.gob.es/sensibilizacionConcienciacion/iniciativaEmpresas/home.htm>



- (1) The fact that the service is quick to use and free of charge which allows all woman, regardless of her socioeconomic background, to have access to the service.
- (2) The numerous languages in which the service is accessible allows women from most linguistic and cultural backgrounds to have access to the service.
- (3) Anonymity allows women in threatening situations to access the service with more security.

Another relevant example is Degree 902/2020 of 13 October 2020 regarding equal pay between women and men, whose main objective is not only to make it mandatory for companies to reduce their gender pay gap (art. 4), but most importantly to add transparency by setting up a mandatory registry where all staff members are given the right to ask human resources if their salary corresponds to their tasks (art. 5 and 6).<sup>16</sup> For many years, firms could easily get away with lower salaries for women by simply giving women lower sounding titles while the tasks actually were the same as performed by male employees. This retributive registry consists of a document in which the average salaries of employees of the company are listed, including salary supplements and extra-salary payments. Employees will be differentiated depending on their gender, professional groups, categories, and levels or any other applicable classification system (art. 6.1).

The aforementioned mechanisms provide data on systemic issues and allow corporations and the state to notice existing discrimination towards women and eventually take steps to create and apply necessary remedies. Put simply, any discriminated group must be able to **freely identify and denounce a discrimination** as the first step to eliminate it. Thus, the state must set in place and require certain platforms in an attempt to allow women to inform themselves and state their opinion on the challenges they face.

## 2. Minorities: Sinti and Roma

This section examines factors that affect the right to freedom of expression and information of Romani people in Spain and their access to information and communications technology. The Spanish government estimates that there are between 600,000 and 650,000 Roma people living in Spain which makes them the biggest ethnic minority in Spain.<sup>17</sup>

In order to achieve the European strategic objectives, set out in the EU Roma Strategic Framework,<sup>18</sup> the European Union provides States with recommendations, among which we find: "To guarantee the socio-economic inclusion of the Roma population in a situation of social exclusion, especially in education, employment, health and housing".<sup>19</sup> This strategy is

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<sup>16</sup> Ministerio de Igualdad Español, 'Plan Estratégico de igualdad de oportunidades' (2022) <<https://www.inmujeres.gob.es/publicacioneselectronicas/documentacion/Documentos/DE1824.pd>>.

<sup>17</sup> Consejo de Europa: Secretaría del Convenio Marco para la protección de las Minorías Nacionales. (2000). Report Submitted by Spain Pursuant to Article 25, Paragraph 1 of the Framework Convention for the Protection of National Minorities, ACFC/SR (2000)005 <<https://rm.coe.int/16800c10cf>>.

<sup>18</sup> EUROMA (2023) European Commission publishes assessment of National Roma Strategic Frameworks. 3 <<https://www.euromanet.eu/news/european-commission-publishes-assessment-of-member-states-national-roma-strategic-frameworks/>>.

<sup>19</sup> Gobierno de España (2021) Estrategia Nacional para la Igualdad, Inclusión y Participación del Pueblo Gitano 2021-2030. 6 <<https://www.euromanet.eu/news/european-commission-publishes-assessment-of-member-states-national-roma-strategic-frameworks/>>.

also aligned with the 2030 Agenda for Sustainable Development and seeks to contribute especially to the achievement of SDGs 10 (Reduction of inequalities), 4 (Quality education), and 5 (Gender equality). In order to implement the new framework for action designed by the European Commission, Spain has devised several national strategies, the latest being the *Spanish National Strategy for Equality, Inclusion and Participation of the Roma People (2021-2030)*.

However, despite noticeable advancements, there are still significant obstacles to overcome. In the area of education, for example, there still exists an evident gap as "41.2% of Roma women and 31.4% of Roma men have no education".<sup>20</sup> A central problem that states are now facing is the **digital divide**. In fact, as the European Commission has pointed out, the risk of further digital exclusion of Roma from education, as seen during the COVID-19 pandemic, is insufficiently addressed by the national Roma strategic frameworks of EU Member States.<sup>21</sup> Some observers criticize that Roma communities have been completely marginalized from access to information and communication technology (ICT).<sup>22</sup> In 2020, 26% of Roma households had no computer equipment and 23% faced difficulties in accessing information.<sup>23</sup>

The aforementioned National Strategy for Equality, Inclusion and Participation of the Roma People, recognizes the greater difficulties of this group in accessing resources associated with social, educational and health services, many of which are provided solely through the internet.<sup>24</sup> It also outlines a pathway for the next 10 years to address this issue. The indicators selected in the national plan to assess the effectiveness of the measures are twofold. Firstly, "access to digital media", i.e., people in a situation of economic vulnerability (with an income of less than 900 euros per month) who have connected to the internet via a laptop. It currently stands at 22.4% and the government wants to raise it to 50% by 2030. Secondly, "digital skills" of people with no digital skills or low skills in a situation of economic vulnerability. It currently stands at 56.6% and the government wants to decrease it to 15% by 2030.

The digital divide is particularly acute for women. **Romani women** are affected by "multiple discrimination": for being women in a patriarchal society and for belonging to an ethnic minority that continuously receives the worst social evaluation according to studies on social

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<sup>20</sup> Gobierno de España (2021) Estrategia Nacional para la Igualdad, Inclusión y Participación del Pueblo Gitano 2021-2030. 18 <[https://www.mdsocialesa2030.gob.es/derechos-sociales/poblacion-gitana/docs/estrategia\\_nacional/Estrategia\\_nacional\\_21\\_30/estrategia\\_aprobada\\_com.pdf](https://www.mdsocialesa2030.gob.es/derechos-sociales/poblacion-gitana/docs/estrategia_nacional/Estrategia_nacional_21_30/estrategia_aprobada_com.pdf)>.

<sup>21</sup> European Commission, 'Communication From The Commission To The European Parliament, The Council, The European Economic And Social Committee And The Committee Of The Regions, Assessment report of the Member States' national Roma strategic frameworks' (2023) <[https://commission.europa.eu/system/files/2023-01/1\\_1\\_50155\\_report\\_roma\\_strat\\_comm\\_en.pdf](https://commission.europa.eu/system/files/2023-01/1_1_50155_report_roma_strat_comm_en.pdf)>.

<sup>22</sup> Miquel, V., Cerdà, J. M. R., & Yeste, C. G. 'Minorías culturales y nuevas tecnologías' (2004) Revista de relaciones laborales (11), 113-125 <<https://dialnet.unirioja.es/servlet/articulo?codigo=1067711>>.

<sup>23</sup> Arza, J, et al. 'Encuesta de impacto del COVID-19 en Población Gitana' (2020) <[https://www.sanidad.gob.es/profesionales/saludPublica/prevPromocion/promocion/desigualdadSalud/docs/COVID-19\\_Impacto\\_PoblacionGitana.pdf](https://www.sanidad.gob.es/profesionales/saludPublica/prevPromocion/promocion/desigualdadSalud/docs/COVID-19_Impacto_PoblacionGitana.pdf)>.

<sup>24</sup> Plataforma de Acción Social y Ministerio de Sanidad, 'Brecha digital social y Derechos Humanos' (2020) <[https://plataformaong.org/ARCHIVO/documentos/biblioteca/1614239950\\_brecha-digital-y-defensa-de-los-derechos-humanos-analisis-cuantitativo.pdf](https://plataformaong.org/ARCHIVO/documentos/biblioteca/1614239950_brecha-digital-y-defensa-de-los-derechos-humanos-analisis-cuantitativo.pdf)>.

prejudice in Spain.<sup>25</sup> This implies that access to the right of freedom of expression and information of Romani women and girls is much less than that of the general population, and less than the men in their community. This makes it necessary that any national or regional strategy should specifically include Romani women as a subgroup and aim at providing them with better opportunities.

A similar picture appears when one looks at so-called “España vacía” (empty Spain), namely remote and rural areas with a low population density and a high rate of elderly. These marginalized and vulnerable areas deserve special attention due to their lack of access to many facilities, including high-speed internet and connectivity. According to Eurostat and INE (National Institute for Statistics), half of the population between 65 and 75 that use the internet have low digital skills, with over a quarter not even being able to do day-to-day management tasks.<sup>26</sup> This poses a serious problem especially after the pandemic where many administrative activities have now been digitalized, including healthcare and bank services among others.

At the same time, government authorities and digital companies have taken different steps to promote secure and uninterrupted online access to information and communications for women and marginalized communities. The measures include providing free or low-cost internet services in disadvantaged areas; supporting digital literacy projects to help people learn to use the internet and digital technologies; or providing content in local languages.

### 3. Adequate Housing

A particular challenge for Spain that has become apparent during the financial crisis of 2008 is the right to adequate housing. The right to housing is guaranteed in the Spanish constitution in Article 47 which provides that one of the “guiding principles of social and economic policy” is the right of Spanish citizens to decent and adequate housing.

The scope of the housing crisis was depicted when the then UN Special Rapporteur on extreme poverty and human rights, Philip Alston, visited Spain in 2020 and reported on the housing situation. According to quoted data, 24% of the Spanish population faces ‘housing exclusion’, and 4.6 million people live in substandard housing. Furthermore, private rental market affordability is among the lowest in the OECD, and social housing is almost non-existent (accounting for 2.5%).<sup>27</sup>

The financial crisis has further exposed two interrelated challenges: The **lack of social**

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<sup>25</sup> Pe, P, ‘Mujeres gitanas y feminismo: un movimiento sin diseccionar’ (2020) EHQUIDAD. Revista Internacional de Políticas de Bienestar y Trabajo Social (13), 59-78 <<https://revistas.proeditio.com/ehquidad/article/view/3314>>.

<sup>26</sup> National Institute of Statistics, ‘Encuesta sobre Equipamiento y Uso de Tecnologías de Información y Comunicación en los Hogares’ (2020) <[https://www.ine.es/prensa/tich\\_2020.pdf](https://www.ine.es/prensa/tich_2020.pdf)>.

<sup>27</sup> Statement by Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights, on his visit to Spain, 27 January – 7 February 2020, <<https://www.ohchr.org/en/statements/2020/02/statement-professor-philip-alston-united-nations-special-rapporteur-extreme>>; see also Expatica Spain, ‘Housing in Spain’ (2023) <<https://www.expatica.com/es/housing/housing-basics/housing-in-spain-181750/#:~:text=Social%20housing%20in%20Spain%20is,owner%20Occupation%20rather%20than%20rented>>.

**housing** and, related to this, the **practice of evictions**. In Spain, available data shows the worst percentages of social housing in the last four decades. As mentioned before, Spain is at the bottom of the list of EU countries' social housing markets.<sup>28</sup> On the other hand, countries like Austria, Denmark and France lead the list with around 15%.

Several complaints to the UN Committee on Economic, Social and Culture Rights (CESCR) also demonstrate the flaws in the Spanish judiciary system regarding the practice of evictions. For example, in its opinion in *Mohamed Ben Djazia and Naouel Bellili v. Spain* the Committee found a violation of Article 11(1), Article 2(1) regarding the obligation to take measures to achieve progressive realization of rights to the greatest extent possible, and Article 10(1) regarding the obligation to provide the family with the widest possible protection.<sup>29</sup> Even when an eviction is justified, the CESCR emphasizes the state's positive obligation to protect the right to housing. In such cases, access to effective judicial remedies, genuine prior consultation with affected individuals, consideration of alternative options, assurance that other rights will not be violated due to eviction, special protection for vulnerable groups, and reasonable measures to provide alternative housing are required.

The Committee has highlighted a number of procedural and substantial requirements that also depend on the possibility to receive information. These include the lack of response from public authorities when evictions occur; the information about and consideration of alternatives; the need to consider more factors in cases that involve especially vulnerable people, including children; and the continuous lack of and denial of social housing.

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<sup>28</sup> FRESNEDA, D, 'La brecha de la vivienda social en España' (2021) RTVE.es. [online] doi:2204200.

<sup>29</sup> Mohamed Ben Djazia and Naouel Bellili v. Spain, UN CESCR Communication No. 5/2015, UN Doc. E/C.12/61/D/5/2015, 20 June 2017 para. 12.3-21 <<https://www.escr-net.org/es/caselaw/2017/mohamed-ben-djazia-y-naouel-bellili-c-espana-cescr-comunicacion-nro-52015-un-doc>>.

## C. Media and New Technologies

### 1. Media

A free press is directly related to good governance in open democratic societies. Target no. 10 of SDG 16 on Peace, Justice and Strong Institutions wants to “ensure public access to information and protect fundamental freedoms, in accordance with national legislation and international agreements.” In more recent times, freedom of the press and freedom of expression have been limited in the context of independence movement in Catalonia.

In 2017, a referendum on the independence was held in Catalonia,<sup>30</sup> which was declared illegal by the Spanish Constitutional Court. Two years later in 2019, the trial of Catalan independence leaders started, of whom twelve people were convicted of the crimes of sedition and the misuse of public funds<sup>31</sup>. As in any conflict, the press also played a key role in this context, for the information disseminated by the media on both sides of the divide was often partial, inaccurate and even manipulative of public perception. As often happens, this led to a devaluation of political institutions as well as a high level of disinformation. For example, upon request from an anti-independence party the Barcelona Provincial Electoral Board<sup>32</sup> prohibited that during an election period the pro-independence activists, who were imprisoned or had fled the county, could be called "political prisoners" or "exiles". This affected also Catalan media outlets. A further example is the so-called *CatalanGate* as it has been called by *Citizen Lab*, the authors of the original investigation<sup>33</sup>. This involved an espionage scandal in which 65 individuals were targeted using spyware, allegedly planted by Spanish authorities.<sup>34</sup> The targeted individuals included members of the European Parliament, the Catalan government and parliament, lawyers and members of civil society organizations mainly of pro-independence ideology. Among those affected were also two journalists. In response to this scandal, the Spanish government is planning to reform the Classified Information Law and the judicial control of the Spanish intelligence agency CNI.<sup>35</sup> However, the legal reform has been criticized by the main association of journalists of Spain, FAPE, for being too restrictive regarding the right to freedom of expression and access to information.<sup>36</sup>

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<sup>30</sup> Nueva Sociedad, ‘Cataluña y la triple crisis española’ (2018) Nueva Sociedad <<https://nuso.org/articulo/cataluna-y-la-triple-crisis-espanola/>>.

<sup>31</sup> El País, ‘Sentencia del “procés”: penas de 9 a 13 años para Junqueras y los otros líderes por sedición y malversación’ (14 October 2019) <[https://elpais.com/politica/2019/10/14/actualidad/1571033446\\_440448.html](https://elpais.com/politica/2019/10/14/actualidad/1571033446_440448.html)>.

<sup>32</sup> González, G., ‘La Junta Electoral prohíbe a TV3 usar en campaña “presos políticos” o “presidente en el exilio”’ (8 October 2019) ELMUNDO <<https://www.elmundo.es/cataluna/2019/10/08/5d9cc7b8fc6c83c6578b4643.html>>.

<sup>33</sup> Scott-Railton, J., Campo, E., Marczak, B., Razzak, B. A., Anstis, S., Böcü, G., Solimano, S., et al. ‘Catalangate: Extensive mercenary spyware operation against Catalans using pegasus and Candiru’ (2022) The Citizen Lab <<https://citizenlab.ca/2022/04/catalangate-extensive-mercenary-spyware-operation-against-catalans-using-pegasus-candiru/>>.

<sup>34</sup> Ramos, A.B., ‘Paz Esteban, La Directora del CNI, admite El Espionaje a 18 independentistas, Incluido Aragonès’ (5 May 2022) elconfidencial.com <[https://www.elconfidencial.com/espana/2022-05-05/comision-secretos-congreso\\_3419375/](https://www.elconfidencial.com/espana/2022-05-05/comision-secretos-congreso_3419375/)>.

<sup>35</sup> ‘Caso pegasus: Todo Lo Que Sabemos sobre el espionaje del CNI’ (2022) OndaCero <[https://www.ondacero.es/noticias/espana/caso-pegasus-todo-que-sabemos-espionaje-cni\\_20220526628f397bd7b96e0001f34acb.html](https://www.ondacero.es/noticias/espana/caso-pegasus-todo-que-sabemos-espionaje-cni_20220526628f397bd7b96e0001f34acb.html)>.

<sup>36</sup> González, M., ‘La principal organización de Periodistas de España denuncia que la Nueva Ley de

## 2. New Technologies

In the local context, both at the provincial and municipal level, Barcelona has placed a strong emphasis on the implementation of the Agenda 2030.<sup>37</sup> A specific project that has been developed in the city is the *MES Barcelona* which tries to promote photovoltaic energy on all homes and make it accessible to all citizens regardless of their income, providing external funding and guaranteed materials. The companies that fund the photovoltaic panel then sell the electricity to the building's owners and, once the contract on electricity-sales ends, the panel will then belong to the building's owners at zero cost.

Related to information, one example of the municipal strategic plan on technological transformation<sup>38</sup> is the creation of an ecosystem of “open city data”. The aim is to promote the use and discovery of new data sets, create storage infrastructure and support tools and services essential for working with the data. The aim is to create new legal, economic and governmental schemes that promote the collaboration between individuals to contribute to the common good. Another example is the local project, DSI4BCN, which organized conferences, round tables and other events with the aim to interconnect the local community with European opportunities. This formed part of the European DSI (Digital Social Innovation) network which is “a type of collaborative innovation in which innovators, users and communities collaborate using digital technologies to co-create knowledge and solutions for a wide range of social needs”.<sup>39</sup>

All of these initiatives and many more related to the local implementation of the Agenda 2030 aim also at the improvement of collection of relevant information, better access to information and thus more effective distribution of information. This relates to a clear priority to promote a more plural and sustainable economy that includes a **cooperative, social and solidarity economy**<sup>40</sup> that complement and supplement commercial enterprises and public administrations. As mentioned before, however, the exclusion of minorities and other vulnerable groups, as well as the question of the actual access to information and the true benefit from these initiatives remain important issues in the context of sustainable development.

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Secretos resucita La Censura' (11 August 2022) El País <<https://elpais.com/espana/2022-08-11/la-principal-organizacion-de-periodistas-de-espana-denuncia-que-la-nueva-ley-de-secretos-resucita-la-censura.html>>.

<sup>37</sup> See, e.g., <<https://ajuntament.barcelona.cat/agenda2030/en>>, especially regarding gender equality <<https://ajuntament.barcelona.cat/agenda2030/en/objectives/achieve-gender-equality-and-empower-all-women-and-girls>>.

<sup>38</sup> See <[https://ajuntament.barcelona.cat/digital/sites/default/files/pla\\_ciutat\\_digital\\_mdgovern.pdf](https://ajuntament.barcelona.cat/digital/sites/default/files/pla_ciutat_digital_mdgovern.pdf)>.

<sup>39</sup> See <<https://cordis.europa.eu/project/id/688192>>.

<sup>40</sup> See, e.g., the initiative Barcelona Activa which has a special focus on encouraging and boosting collaborative economies for the common good in which new technologies and new ways of using these technologies play a key role.