

**IHF FOCUS: freedom of expression, free media and information; torture, ill-treatment and police misconduct; anti-terrorism measures; domestic violence; ethnic minorities; rights of sexual minorities; aggressive nationalism, racism, xenophobia and hate speech; migrants, asylum seekers and refugees.**

Since the general elections on 14 March 2004, Spain has been governed by the Socialist Party (PSOE), with José Luis Rodríguez Zapatero leading a minority government. Following an eight-year rule by the right-wing Popular Party (PP), the change in government also brought a clear change in the political line. The Council of Europe's commissioner for human rights, Alvaro Gil-Robles, pointed out after his 2005 visit to Spain that even though a "solid culture" for the respect for rights existed in the Spanish society, "sectors of risk remain and this makes it essential to strengthen and improve the effectiveness of the supervisory systems."<sup>1</sup>

Spain signed the Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment on 13 April. Also, in January the Organic Law on Measures for Integral Protection against Gender Violence entered into force.<sup>2</sup> Work on the "moral and legal rehabilitation" of victims of the Civil War and the Franco regime by an intergovernmental committee set up in November 2004 by the Spanish Council of Ministers, approving a previous royal decree, continued.

### **Freedom of Expression, Free Media and Information**

On 19 October, Reporters Without Borders presented their Worldwide Press Freedom Index for 2005, which ranked Spain rather poorly (40<sup>th</sup>) "largely because of continued threats to journalists by ETA Basque militants." This index reflects the degree of freedom journalists and news organizations enjoy in each country, and the efforts made by the state to ensure respect for this freedom.<sup>3</sup>

On 20 December, the Catalan parliament approved the new Catalan Audiovisual Law, which extended the control and the regulatory functions of the Catalan Audiovisual Committee (CAC), a censoring entity established in September by the Regional Parliament of Catalonia in order to detect the publication of "untruthful information" – a unique body in Western Europe and the EU. This law enables the CAC to impose sanctions between EUR 90,001 and 300,000 on the media, as well as to suspend their activity for three months.<sup>4</sup>

◆ On 21 December, the CAC made public a report in which it accused the COPE network of failing to fulfill "its prerequisites of constitutional veracity." The accusation referred to the programs "La Mañana" realized by Federico Jiménez Losantos and "La Linterna" by César Vidal, the contents of which were qualified by the CAC as "surpassing the limits of freedom of expression" and "clearly representing insults or public humiliation."

On 23 December, the World Press Freedom Committee demanded to the president of the autonomous government of Catalonia, Pasqual Maragall, and to the president of the Catalan parliament, Ernest Benach, that the CAC be dismantled for infringing the right to freedom of information under the guise of "moral authority."<sup>5</sup>

### **Torture, Ill-treatment and Police Misconduct**

In March, the Office of the UN High Commissioner for Human Rights released a report prepared by the then UN special rapporteur on torture, which included a summary of reliable and credible allegations of torture and other cruel, inhuman or degrading treatment or punishment in

Spain.<sup>6</sup> Altogether, the report mentions 13 cases dating from 2000-2004.

In April, Spain signed the Optional Protocol to the UN Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. In the official statement made on this occasion, the Spanish foreign minister, Miguel Ángel Moratinos, expressed his hope that Spain will no longer be subject of UN reports on ill-treatment and abuses in prisons.<sup>7</sup>

On the other hand, following his visit to the country in March the Council of Europe Commissioner for Human Rights Alvaro Gil-Robles made public a report on the situation of human rights in Spain in November. The commissioner emphasized that both official sources and NGOs agreed that torture and ill-treatment were not systematically practiced in Spain. However, he specifically expressed concerns that complaints were "not always investigated as swiftly and as efficiently as they should be."<sup>8</sup> Most allegations of such abuses were made by NGOs in connection with terrorist suspects.<sup>9</sup> Moreover, he expressed his dissatisfaction with the arrangements for compensation of torture victims.

The data made available as of early 2006 at the request of the Council of Europe commissioner for human rights only covered the period up to the first quarter of 2005. The statistics suggested that cases of ill-treatment were more frequent among the local police and the autonomous police forces (with the noteworthy exception of the Basque "Ertzaintza") than in the National Police or the *Guardia Civil*.<sup>10</sup>

◆ On 24 July, Juan Martínez Galdeano, a 39-year-old farmer from Roquetas de Mar, Almería, died while on the premises of the local *Guardia Civil*, where he had come voluntarily to report an incident involving third parties. An investigation into his death was immediately ordered and the minister

of the interior reported the full details of the case to parliament. Though the Council of Europe's commissioner for human rights noted in his report that Martínez Galdeano had died as a result of the blows he received from the police<sup>11</sup>, the final forensic report of the Institute for Legal Medicine in Almería stated that "the fundamental cause of death was the preceding consumption of cocaine."<sup>12</sup>

This case spurred further investigations, which revealed that this was not the first time that ill-treatment involving the *Guardia Civil* in this police station had been reported. Yet no serious investigation had been carried out, mainly due to the fact that the court which received the complaints did no more than to submit the information to the same *Guardia Civil* post where the offences had allegedly been committed.<sup>13</sup> Moreover, several defensive weapons prohibited by regulations, such as an electric truncheon and a rigid, telescopic metal one, were found at the same *Guardia Civil* post, along with clear proof that they had been used against the detainees.

At the same time, it appeared that false allegations of ill-treatment were made for political motives by some ETA (*Euzkadi Ta Askatasuna*<sup>14</sup>) activists: for example, *The ETA Handbook on Reporting Torture*<sup>15</sup> gave specific instructions to report false allegations of torture.

Another worrying figure has been that of detainees committing suicide while in prison. Forty deaths were registered in 2004, which was eight more than in 2002 and four more than in 2003. The forecast for 2005 showed an alarming increase.<sup>16</sup> The concerns expressed in connection with these figures included poor detention conditions in prisons, especially overcrowding, as well as the lack of adequate psychological support. In Spain the prison system remained attached to the Ministry of Interior (not Ministry of Justice), a fact

also criticized by the Council of Europe Commissioner for human rights.

In December, a delegation of the Council of Europe's Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) conducted a one-week visit to Spain. The report of this visit was not made public by early 2006.<sup>17</sup>

### Anti-Terrorism Measures

Spanish and foreign NGOs expressed concern that the Spanish criminal law would permit and encourage ill-treatment under the pretext of fighting terrorism.<sup>18</sup>

Unlike in many countries and despite Spain's long history of terrorist attacks especially by ETA, no exceptional measures were introduced in Spain in response to the terrorist threat following the terrorist attacks in Madrid in March 2004 to toughen the legislation or to curtail, restrict or limit the rights of people detained for terrorist activities.<sup>19</sup> Terrorism-related crimes are being addressed exclusively through the criminal justice system and judged by the National Court (*Audiencia Nacional*), which is an ordinary court. The applicable provisions are found mainly in the Criminal Code, as amended by the Organic Law 15/2003 of 25 November 2003, and in the Law on Criminal Procedure as amended by the Organic Law 13/2003 of 24 October 2003.

However, article 55(2) of the Constitution of Spain stipulates that certain rights of prisoners may be restricted in connection with investigations of the crimes of terrorism and rebellion referred to in section 384bis of the Law on Criminal Procedure.

Though official voices regarded Spain as the leader on countering terrorism within the limits of the rule of law, NGOs increasingly warned in 2005 against the erosion of human rights in the fight against terrorism. Most concerns were expressed in

relation to the use of incommunicado detention and secret legal proceedings, limitations on the access to a lawyer during the initial period of detention, as well as lengthy periods of pre-trial detention.<sup>20</sup> The maximum authorized period of time for incommunicado detention was 18 days.

Another concern, expressed for example in a CPT report<sup>21</sup> in 2003 and re-iterated in the report of the Council of Europe's commissioner for human rights in 2005, was that detainees did not have the right to see their lawyer in private, though they had the right to be assisted by them when making any statement. Moreover, NGOs complained<sup>22</sup> that detainees were not allowed to have access to a lawyer of their choice, rather only to an appointed one.

Terrorism-related activities in Spain 2005 included several blasts for which ETA claimed responsibility.<sup>23</sup>

### Domestic Violence

Domestic and gender-based violence continued to be a serious problem in Spain, though the issue was increasingly addressed at the national level. According to the Council of Europe's commissioner for human rights' report, two million women were estimated to suffer violence from their spouses or ex-spouses, though it was believed that fewer than 5% of all cases were reported.<sup>24</sup>

An Observatory on Domestic and Gender Violence (*Observatorio contra la Violencia Doméstica y de Género*) has been functioning under the General Council of the Judiciary since 2002. The preliminary data released in October showed that in the first six months of 2005 more than 48,300 complaints were received from women from all over Spain.<sup>25</sup> Roughly 19,500 persons were arrested in relation to gender violence crimes in 2005.<sup>26</sup>

Furthermore, the number of deaths as a result of gender-based violence reported in mid November was 56, seven less than

for the same period in 2004. The total figure of deaths as a result of gender-based violence reported by the Council of Europe commissioner for human rights for the year 2004 was 84.<sup>27</sup>

A positive development in 2005 was the entry into force of the Organic Law on Measures for Integral Protection against Gender Violence in January. It constitutes, along with the subsequent amendments to the Criminal Code and the Law on Criminal Procedure, important steps to combat gender violence. The new legislation also introduced a clear definition of gender violence, which is regarded as "any act of physical or psychological violence, including infringements of sexual freedom, threats, coercion and arbitrary deprivation of liberty."<sup>28</sup>

The Ministry of Justice created also a Central Register for the Protection of Victims of Domestic Violence, which keeps record of the individuals who have been involved in cases that have been dealt with by the courts.<sup>29</sup> Citing the ministry, the report of the Council of Europe's commissioner for human rights stated that more than 100,000 persons, about 95% of them men, had been registered since August 2003.<sup>30</sup>

In May, Amnesty International published a report<sup>31</sup> on domestic violence in Spain. Although the organization recognized the progress made as a result of the recent new legislation, it nevertheless emphasized its concerns about the existence of approaches, prejudice, mechanisms and discriminatory practices that may continue to have a bearing on the work of civil servants and officials - to the detriment of women's human rights.

Another aspect of domestic violence is the violence committed by children against their parents. In a statement from 19 October, the Spanish ombudsman stated that the number of cases in 2005 showed an increase between an estimated 18% and 23%.<sup>32</sup>

## Ethnic Minorities

### *Roma Minority*

The November edition of the public opinion poll published by the Center for Sociological Investigations included questions on the perception of the Roma community.<sup>33</sup> The survey indicates that the Roma community, which is still the largest ethnic minority in Spain, continues to be the social group least tolerated also when compared to other disadvantaged individuals such as "persons who have been in prison," "alcoholics," or "persons with psychological problems."

Over 15% of the respondents considered it very disturbing to have Roma as their neighbors, while only 4.5% said the same about immigrants. An additional 24.7% responded with "greatly disturbed" and 25.6% with "little disturbed" to the same question. In a similar vein, 25% said they would mind "very much" or "much" if their children had Roma classmates. Only about 10% said the same about immigrants.

The problem of the negative social image of the Roma community was also reflected by the discrimination they suffered in their access to employment, education and housing.<sup>34</sup>

On 15 March, the European Monitoring Centre on Racism and Xenophobia (EUMC) released an analytical report on discrimination and disadvantage experienced by migrants and minorities in the education sector in the 15 EU member states. The information relevant to Spain was provided by the NGO Movement for Peace, Disarmament and Liberty, and indicated a tendency to create ghettos in some public schools, due to the high concentration of immigrant or Roma students. The EUMC expressed concern that this biased view of the public education situation is creating a gap in opportunities and is, at the same time, leading to an increase of discriminatory and racist attitudes that has

consequences for the education of the immigrant population. Most of the schools immigrant pupils attend are located in areas in which exclusion and deep poverty prevail. At the same time, an analysis of the available data confirms that the number of foreign pupils is increasing significantly and that the number of native pupils is decreasing regularly.<sup>35</sup>

### **Rights of Sexual Minorities**

On 30 June, the parliament in a 187 to 147 vote approved same-sex marriage, thus making Spain the third country in the world, after Belgium and the Netherlands, to give gay couples the same right to marriage as heterosexuals. The Spanish law also gives same-sex couples the right to adopt children and inherit. The decision angered opponents such as the Roman Catholic Church, which denounced the measure as “unjust.”<sup>36</sup>

The Popular Party, which favored recognizing civil unions without using the word marriage, said it would consider an appeal to the Constitutional Court.<sup>37</sup>

### **Aggressive Nationalism, Racism, Xenophobia and Hate Speech**

Spain has taken a number of steps towards combating racism and intolerance, including the adoption of criminal law provisions in the field of combating racism and racial discrimination.

On 21 March, on the occasion of the International Day for Eliminating Racial Discrimination, the Spanish Observatory on Racism and Xenophobia was opened with the aim of providing a clear analysis of the situation of racial discrimination in Spain and contributing to the adoption of the necessary measures to prevent racial discrimination. Also, another governmental project to set up a Council for Equal Treatment and Non-Discrimination was discussed in 2005, following the transposition into Spanish law of EU Community Direc-

tive 43/2000 (“race directive”), the purpose of which is to implement the principle of equal treatment between persons irrespective of racial or ethnic origin.

However, racism and xenophobia continued to be a problem throughout 2005: according to the November survey of the Center for Sociological Investigations, 31.3% of the Spaniards would prefer to “live in a place where almost no one were of a different race or ethnic group than that to which the majority of Spaniards belong.”<sup>38</sup> Intolerance among Spaniards can be considered partly the result of inadequate implementation of existing legislation and partly the consequence of a certain type of public discourse, which makes use of xenophobic arguments and thus creates a negative climate in the context of immigration and immigrants.

◆ On 10 May, thousands of persons living in the Villaverde district of Madrid took part in a peaceful demonstration against racism and xenophobia, in which they also asked for better security measures following the murder of a 17-year-old Spanish boy by a 19-year-old Dominican. A representative of the government, Constantino Méndez, revealed that the police had annihilated more than 20 attempts from various groups of violent radical youths to disrupt the demonstration.<sup>39</sup>

In March, the European Commission against Racism and Intolerance (ECRI) published a study on the use of racist, anti-Semitic and xenophobic arguments in political discourse, which in particular mentioned Democracia Nacional (DN), a far right Spanish party.<sup>40</sup> DN’s slogan was “Spaniards first” and one of their favorite campaign themes was the “Muslim peril,” a clear reflection of the party’s negative stance on immigration issues.<sup>41</sup>

According to the November edition of the survey of the Center for Sociological Investigations<sup>42</sup> 40% of Spaniards perceived immigration as one of the most important

contemporary problems in Spain, which made it the second concern after unemployment. However, when asked about their personal problems, the concern about unemployment still remained the highest, and the immigration problem fell to 13.3%. About 79% said they “highly agreed” or “agreed” with the statement that “people who came to live in Spain should have the same rights as everybody else” and nearly 35% disagreed with the statement that “in order to avoid problems, a country should put an end to immigration.” On the other hand, 60% of the respondents considered that there were already “enough” or “too many” immigrants in Spain.

◆ In April, the *Guardia Civil* disabled the Spanish branch of the neo-Nazi organization “Blood & Honor,” an international network promoting hate against immigrants, homosexuals and democratic institutions. The detainees were accused of advocating genocide, illegally holding weapons and illicit association.<sup>43</sup>

### Migrants, Asylum Seekers and Refugees

The rules on aliens and immigration are essentially contained in the Organic Act of 11 January 2000 on the rights and freedoms of foreigners in Spain and their social integration, and in the regulation of 11 January 2005.

According to the 2005 statistics, the foreign population in Spain with a residence permit made up 5% of the total population, or a little over 2 million. Added thereto were foreigners in an illegal situation, who were estimated to number between 800,000 and 1 million, before the process of regularization. Most immigrants came from Latin America, Eastern Europe and Africa.<sup>44</sup>

In January 2005 the Ministry for Work and Social Affairs adopted new norms for the implementation of Organic Law

4/2000 on the rights and freedoms of foreigners in Spain and their social integration.<sup>45</sup> Between 7 February, when the Aliens’ Regulation entered into force, and 7 May, the government carried out a collective regularization process.<sup>46</sup> By the end of August 2005, about 460,000 or about 70% of the applications received had been accepted, so that the number of foreign workers included in the social security system was 1.6 million, i.e., 8.7% of the total number of labor force.<sup>47</sup>

### *The Southern Border: Ceuta and Melilla*

October proved to be a fatal month at the border between Spain’s North African enclaves of Ceuta and Melilla and Morocco, as several cases of mass deportations and deaths of migrants were registered. Morocco admitted that its border guards were responsible for four of the fatalities, while an internal Spanish inquiry exonerated Spanish forces.

◆ On 28 August, a 17-year-old boy from Cameroon died in Melilla after a group of immigrants from Sub-Saharan Africa entered the Spanish territory by jumping over the fence separating the enclave from Morocco. The boy died as a result of injuries suffered during a clash between immigrants and Spanish border guards.<sup>48</sup>

◆ On 29 September, five persons died from gunfire, again after attempting to enter the Spanish territory by climbing over the fence between Morocco and Spain.<sup>49</sup>

◆ On 6 October, six persons were shot dead by security forces policing the same border.<sup>50</sup>

◆ In early October, faced with mass attempts by undocumented migrants to forcefully enter the Spanish enclaves, the Spanish government expelled at least 73 people who had reached the enclaves to Morocco, including six who allegedly had claimed asylum.<sup>51</sup> The expulsions were re-

portedly carried out without an individual assessment that would have made asylum claims possible.<sup>52</sup> On 23 October, Morocco deported 49 Malians from this group to their home country despite the fact that at least two had applied for asylum in Morocco.<sup>53</sup>

More than 4,000 troops from the Royal Armed Forces, the Royal Gendarmerie, and the Spanish Auxiliary Forces and civil bodies for fighting organized crime were mobilized at the Ceuta and Melilla border in October. An additional 7,000 strong Moroccan military force was permanently deployed there in order to guard the border with Spain. The Moroccan Ministry of the Interior claimed that during 2004-2005 these forces alone have dismantled 400 criminal organizations involved in the trafficking of immigrants, as well as having prevented the entry of 26,000 persons into Spain. NGOs demanded independent investigation of the above mentioned cases<sup>54</sup> in light of international human rights standards on illegal use of firearms and the prohibition of collective expulsions.<sup>55</sup>

### *Asylum Seekers and Refugees*

Both Spain and Morocco have ratified the 1951 UN Refugee Convention, which establishes the rights of asylum seekers, as applicable in some of the above-mentioned cases. Altogether, statistics available from UNHCR Geneva for the first three quarters of the year 2005 revealed that 3,539 asylum applications were submitted in the first half of the year,<sup>56</sup> which indicates a decrease in the number of asylum applications in Spain compared with the last two years. On the other hand, according to the Office for Asylum and Refugees, only 223 persons were granted refugee status between January and the end of November 2005, which represents 4.7% of the applicants received (4,753), up from 2.9% in 2004, which may however

be a result of the decreasing number of asylum claims.<sup>57</sup> Most asylum applicants in 2005 came from Colombia, Nigeria, Algeria and the Russian Federation.

In June, AI released a report<sup>58</sup> covering a range of issues related to the detention and expulsion of people seeking asylum in Spain. The report pointed out that the attempts made by the Spanish government to control immigration prevented people who were fleeing grave human rights violations from seeking asylum and obtaining protection. The report cited serious shortcomings in the treatment of foreign nationals, both in terms of rescue at sea, and reception facilities on arrival, and documented the unlawful expulsion of foreign minors in contravention of Spanish law.

The same concerns were re-addressed in another AI report<sup>59</sup> published in October, which stated once more that gross human rights abuses against migrants at the Spanish border went unpunished. It noted that there was a real danger of *refoulement* by Moroccan authorities of asylum seekers and people already recognized as refugees by the UNHCR.<sup>60</sup>

There were, however, also some positive developments in the area of asylum granting in 2005. On 31 May, the Spanish government for the first time decided to grant refugee status to a female victim of gender violence, thus creating a precedent in a matter that had been repeatedly criticized by NGOs, namely the fact that the new legislation makes no provisions on the right to asylum for such victims. In the past, Spain had granted complementary protection to women fleeing domestic violence, but never refugee status under the 1951 Geneva Convention.<sup>61</sup>

## Endnotes

- <sup>1</sup> Council of Europe, *Report by Alvaro Gil-Robles, Commissioner for Human Rights, on His Visit to Spain, 10-19 March 2005*, CommDH(2005)8, 9 November 2005, at [www.coe.int/T/E/Commissioner\\_H.R/Communication\\_Unit/Documents/By\\_year/2005/](http://www.coe.int/T/E/Commissioner_H.R/Communication_Unit/Documents/By_year/2005/).
- <sup>2</sup> *Ley Orgánica de medidas de protección integral contra la violencia de género*, Organic Law 1/2004, (BOE núm. 313 de 29 de diciembre de 2004), 28 December 2004.
- <sup>3</sup> Reporters Without Borders, *Worldwide Press Freedom Index 2005*, at [www.rsf.org/article.php3?id\\_article=15335](http://www.rsf.org/article.php3?id_article=15335).
- <sup>4</sup> *El Mundo*, "Aprobada la ley audiovisual de Cataluña con el voto en contra del PP," 20 December 2005, at [www.elmundo.es/elmundo/2005/12/20/comunicacion/1135089012.html](http://www.elmundo.es/elmundo/2005/12/20/comunicacion/1135089012.html).
- <sup>5</sup> World Press Freedom Committee, "Open letter to His Excellency Pasqual Magarall i Mira, President of the Generalitat of Catalonia and to His Excellency Ernest Benach, Chairman of the Parliament of Catalonia," at [www.wpfc.org/Protests.html](http://www.wpfc.org/Protests.html).
- <sup>6</sup> UN Commission on Human Rights, *Report of Theo van Boven, Special Rapporteur on the question of torture*, E/CN.4/2005/62/Add.1, 30 March 2005.
- <sup>7</sup> *El Mundo*, Madrid, 13 April 2005, at [www.elmundo.es](http://www.elmundo.es).
- <sup>8</sup> Council of Europe, *Report by Alvaro Gil-Robles, Commissioner for Human Rights, on His Visit to Spain, 10-19 March 2005*, CommDH(2005)8, 9 November 2005, pp. 5-9.
- <sup>9</sup> Notably Amnesty International (AI) and Human Rights Watch (HRW). For details, see the section on Anti-Terrorism Measures below.
- <sup>10</sup> In 2004, 15 disciplinary cases were brought against national police officers for alleged ill-treatment, ranging from threats to actual torture, but none of which concerning detainees held incommunicado. In concrete terms, this represents one more case than in 2002 and five more than in 2003. In four of these 15 cases it was confirmed that serious or very serious offences had been committed, while other eight cases were still pending sentence or appeal at years end. In the remaining three cases the proceedings were dropped. Also in 2004, 32 complaints for similar offences were lodged against the *Guardia Civil*, compared with 59 in 2002 and 27 in 2003. One resulted in a conviction, six in a discharge, two cases have been dropped and 23 were still pending.
- <sup>11</sup> Council of Europe, *Report by Alvaro Gil-Robles, Commissioner for Human Rights, on His Visit to Spain, 10-19 March 2005*, CommDH(2005)8, 9 November 2005, p. 7.
- <sup>12</sup> *Cadena Ser*, 13 January 2006, at [www.cadenaser.com](http://www.cadenaser.com).
- <sup>13</sup> UN Commission on Human Rights, *Report of Theo van Boven, Special Rapporteur on the question of torture*, E/CN.4/2005/62/Add.1, 30 March 2005.
- <sup>14</sup> Basque Fatherland and Liberty.
- <sup>15</sup> The handbook was found on Commando ARABA/98 on 19 March 1998, and used in proceedings before Central Investigative Court No. 1 of the National Court. See the report on allegations of torture in Spain published by the citizens' group BASTA Ya, which was awarded the European Parliament's Sakharov Prize for Freedom of Conscience in December 2000. False allegations of torture were also reported by the Basque ombudsman in "Declaration on Torture," the Basque Ombudsman Institution, 21 December 2004.
- <sup>16</sup> Council of Europe, *Report by Alvaro Gil-Robles, Commissioner for Human Rights, on His Visit to Spain, 10-19 March 2005*, CommDH(2005)8, 9 November 2005, p. 14.
- <sup>17</sup> Council of Europe, CPT, press release, 21 December 2005, at <http://cpt.coe.int/en/>.
- <sup>18</sup> Notably Human Rights Watch and Amnesty International.
- <sup>19</sup> UN Commission on Human Rights, *Report of Theo van Boven, Special Rapporteur on the question of torture*, E/CN.4/2005/62/Add.1, 30 March 2005, 5.



- <sup>20</sup> Human Rights Watch, *Setting an example? Antiterrorist measures in Spain*, 27 January 2005, available at <http://hrw.org/reports/2005/spain0105/>.
- <sup>21</sup> CPT, *Report of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment*, CPT/Inf (2003)22, 13 March 2003.
- <sup>22</sup> AI, *Spain: The Necessary Commitment. AI Recommendations for a Human Rights Action Plan*, EUR 41/005/2004, May 2004.
- <sup>23</sup> On 6 December, several explosions were caused by ETA in a post office in Alsasuna (Navarra) and on various roads in the Madrid Community, without major consequences; on 9 February, a bomb attack, of which ETA had warned shortly in advance, was set in the "Juan Carlos I" display park in Madrid, causing injuries to more than 40 people; on 25 May, a small explosion claimed by ETA occurred on the streets of Madrid and superficially injured several persons; on 29 July, two explosions claimed by ETA occurred in Maqueda and Madridejos (both in Toledo), without causing any major damage. Information retrieved from various press releases from the Ministry of Interior website, [www.mir.es](http://www.mir.es).
- <sup>24</sup> Council of Europe, *Report by Alvaro Gil-Robles, Commissioner for Human Rights, on His Visit to Spain, 10-19 March 2005*, CommDH(2005)8, 9 November 2005, p. 46.
- <sup>25</sup> General Council of the Judicial Power (Consejo General del Poder Judicial), *La violencia domestica en la estadística judicial, primer semestre del año 2005: Datos provisionales de los Tribunales Superiores de Justicia*, October 2005, at [www.ub.es/dpenal/VD\\_TSJ\\_2005.pdf](http://www.ub.es/dpenal/VD_TSJ_2005.pdf).
- <sup>26</sup> Ministry of the Interior, at [www.mir.es/oris/notapres/year05/np112601.htm](http://www.mir.es/oris/notapres/year05/np112601.htm).
- <sup>27</sup> Council of Europe, *Report by Alvaro Gil-Robles, Commissioner for Human Rights, on His Visit to Spain, 10-19 March 2005*, CommDH(2005)8, 9 November 2005, pp. 45-48.
- <sup>28</sup> *Ley Orgánica de medidas de protección integral contra la violencia de género*, Organic Law 1/2004, December 28, (BOE núm. 313 de 29 de diciembre de 2004).
- <sup>29</sup> The register contains only cases that have been dealt with by the courts, which have already issued over 55,000 protection orders in cases of domestic violence. The data is removed from the register when the individual in question has been found innocent or where no further action is taken.
- <sup>30</sup> Council of Europe, *Report by Alvaro Gil-Robles, Commissioner for Human Rights, on His Visit to Spain, 10-19 March 2005*, CommDH(2005)8, 9 November 2005, p. 46.
- <sup>31</sup> AI, *Spain: More than Words. Making Protection and Justice a Reality for Women Who Suffer Gender-based Violence in the Home*, EUR 41/005/2005, May 12, 2005.
- <sup>32</sup> The Spanish Ombudsman, at [www.defensordelpueblo.es/index.asp?destino=prensa\\_noticias.asp](http://www.defensordelpueblo.es/index.asp?destino=prensa_noticias.asp).
- <sup>33</sup> Fundación Secretariado Gitano, "La comunidad gitana continúa siendo el grupo social más rechazado en España," 30 December 2005, at <http://web.fsgg.org/servicios/prensa/comunicados/2603.html>.
- <sup>34</sup> Fundación Secretariado Gitano, *Informe Anual "Discriminación y Comunidad Gitana"*, at [www.gitanos.org/publicaciones/discriminacion05/](http://www.gitanos.org/publicaciones/discriminacion05/).
- <sup>35</sup> European Monitoring Centre on Racism and Xenophobia (EUMC), National Focal Point for Spain: Movimiento por la paz, el desarme y la libertad, *Analytical Report on Education*, 2004, at <http://eumc.eu.int/eumc/material/pub/RAXEN/4/edu/R4-EDU-ES.pdf>.
- <sup>36</sup> *Washington Post*, "Spain Legalizes Same-Sex Marriage," 1 July 2005, at [www.washingtonpost.com/wp-dyn/content/article/2005/06/30/AR2005063000245.html](http://www.washingtonpost.com/wp-dyn/content/article/2005/06/30/AR2005063000245.html).
- <sup>37</sup> *Ibid.*
- <sup>38</sup> Center for Sociological Investigations, *Barómetro Noviembre 2005*, No. 2625, 15 November 2005, at [www.cis.es/cis/opencms/ES/1\\_encuestas/estudios/ver.jsp?estudio=5118](http://www.cis.es/cis/opencms/ES/1_encuestas/estudios/ver.jsp?estudio=5118).

- <sup>39</sup> *El Mundo*, "La policía desbarató más de veinte intentos de romper la marcha de Villaverde contra el racismo," 12 May 2005, at [www.elmundo.es](http://www.elmundo.es).
- <sup>40</sup> European Commission against Racism and Intolerance (ECRI), Jean-Yves Camus, *The use of racist, antisemitic and xenophobic arguments in political discourse*, March 2005, at [www.coe.int/T/e/human\\_rights/ecri/1-ECRI/4-Relations\\_with\\_civil\\_society/1-Programme\\_of\\_action/14-Public\\_Presentation\\_Paris\\_2005/Study\\_Camus.asp#TopOfPage](http://www.coe.int/T/e/human_rights/ecri/1-ECRI/4-Relations_with_civil_society/1-Programme_of_action/14-Public_Presentation_Paris_2005/Study_Camus.asp#TopOfPage).
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- <sup>44</sup> Council of Europe, *Report by Alvaro Gil-Robles, Commissioner for Human Rights, on His Visit to Spain, 10-19 March 2005*, CommDH(2005)8, 9 November 2005, pp. 25-27.
- <sup>45</sup> Ministry of Work and Social Affairs - Secretary of State for Immigration and Emigration, *Proceso de Naturalización de trabajadores Extranjeros 2005*, at [www.mtas.es/migraciones/proceso2005/default.htm](http://www.mtas.es/migraciones/proceso2005/default.htm).
- <sup>46</sup> This process involved granting residence and work permits for foreign workers who had been in Spain for at least six months before the new regulation, provided they complied with several conditions: they had to have a valid contract for at least six months of employment, be included on the municipal registry, and have no criminal record.
- <sup>47</sup> Ministry of Work and Social Affairs - Secretary of State for Immigration and Emigration, Observatorio Permanente de la Inmigración, *Boletín estadístico de extranjería e inmigración*, July 2005.
- <sup>48</sup> UNHCR News Portal, at [www.unhcr.ch/cgi-bin/texis/vtx/news](http://www.unhcr.ch/cgi-bin/texis/vtx/news), Press Briefing 2 September, 2005.
- <sup>49</sup> UN High Commissioner for Human Rights, press release from the Special Rapporteur on the Human Rights of Migrants, Dr. Jorge Bustamante, 13 October 2005, at [www.unhcr.ch/hurricane/hurricane.nsf/FramePage/migrants?OpenDocument](http://www.unhcr.ch/hurricane/hurricane.nsf/FramePage/migrants?OpenDocument).
- <sup>50</sup> *Ibid.*
- <sup>51</sup> *El Mundo*, 13 October 2005, at [www.elmundo.es](http://www.elmundo.es).
- <sup>52</sup> *Human Rights Watch World Report 2006*, 18 January 2006, 363-364, at [www.hrw.org](http://www.hrw.org).
- <sup>53</sup> *Ibid.*
- <sup>54</sup> HRW, *Spain: Deportations to Morocco Put Migrants at Risk*, 13 October 2005, at <http://hrw.org/english/docs/2005/10/13/spain11866.htm>; AI, "Spain/Morocco: the Authorities Must Be Held Accountable for the Violation of Migrant's Rights," EUR 41/016/2005, 26 October 2005; AI, *Statements to the 2005 OSCE Human Dimension Implementation Meeting*, Warsaw, 19-30 September 2005, IOR 30/014/2005, 20 September 2005; AI, *The Wire*, Vol. 35. No. 11, NWS 21/011/2005, November 2005, pp. 2-3.
- <sup>55</sup> Principle 9 of the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (Adopted by the 8<sup>th</sup> UN Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August -7 September 1990) provides that law enforcement officials shall not use firearms against persons except in self-defense or defense of others against the imminent threat of death or serious injury. Article 19 (1) of the EU Charter of Fundamental Rights (*Official Journal of the European Communities*, "Charter of Fundamental Rights of the European Union" 2000/C 364/01, 18 December 2000, available at [www.europarl.eu.int/charter/pdf/text\\_en.pdf](http://www.europarl.eu.int/charter/pdf/text_en.pdf)), corresponding to article 4 of

Protocol N° 4 to the European Convention for the Protection of Human Rights and Fundamental Freedoms, which specifically prohibits collective expulsions.

- <sup>56</sup> UNHCR, *Asylum Levels and Trends in Industrialized Countries—Third Quarter 2005*, January 2006, [www.unhcr.se/se/pdf/asyq3-05.pdf](http://www.unhcr.se/se/pdf/asyq3-05.pdf).
- <sup>57</sup> Office for Asylum and Refuge (*Oficina de Asilo y Refugio*), *Boletín de Asilo*, No. 61/ November 2005, available on the “Web de Extranjería,” at [www.intermigra.info/extranjeria/modules.php?name=News&file=article&sid=385](http://www.intermigra.info/extranjeria/modules.php?name=News&file=article&sid=385).
- <sup>58</sup> AI, *The Human Cost of ‘Fortress Europe’: Asylum Seekers Unfairly Detained and Unfairly Expelled*, IOR 61/015/2005, 20 June 2005.
- <sup>59</sup> AI, *Spain/Morocco: EU Pressure to “Keep People Out” Contributing to serious abuse of migrants’ rights*, EUR 41/017/2005, 26 October 2005.
- <sup>60</sup> AI, “Spain: The Southern Border. The State Turns its Back on the Human Rights of Refugees and Migrants,” EUR 41/008/2005, 20 June 2005.
- <sup>61</sup> Information retrieved from the UNHCR news engine, at [www.unhcr.ch/cgi-bin/texis/vtx/country?iso=esp&expand=news](http://www.unhcr.ch/cgi-bin/texis/vtx/country?iso=esp&expand=news).