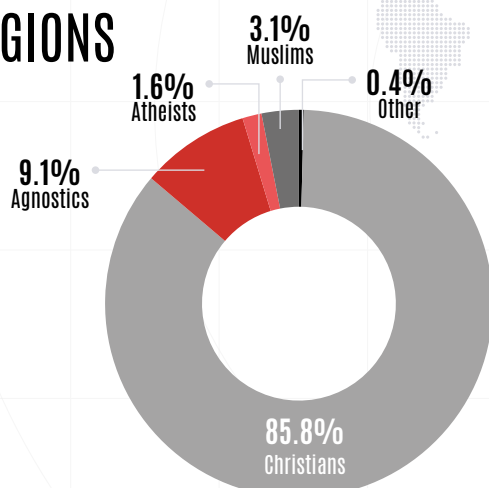




# SPAIN

## RELIGIONS



## LEGAL FRAMEWORK ON FREEDOM OF RELIGION AND ACTUAL APPLICATION

Article 16 of the 1978 Constitution of Spain<sup>1</sup> protects freedom of religion and worship. This fundamental right is regulated by Organic Law 7/1980 on Religious Freedom,<sup>2</sup> the Royal Decree 594/2015 (3rd July) on Religious Entities,<sup>3</sup> the Royal Decree 932/2013 (29th November) concerning the Religious Freedom Advisory Committee,<sup>4</sup> the Royal Decree 589/1984 (8th February) on the Religious Foundations of the Catholic Church,<sup>5</sup> and the Royal Decree 593/2015 (3rd July) regulating the Declaration of Juridical Status of Religious Confessions in Spain.<sup>6</sup>

Other laws that directly or indirectly affect religious freedom are Organic Law 1/2002 on the Right of Association,<sup>7</sup> Organic Law 2/2006 on Education,<sup>8</sup> Organic Law 10/1995 on the Penal Code,<sup>9</sup> Organic Law 8/2013 on the Improvement of Educational Quality,<sup>10</sup> and Organic Law 6/2001 on the Universities.<sup>11</sup>

On 28th July 1976, Spain and the Holy See began enhancing their relations, a process that culminated in the Accords of 3rd January 1979 on legal, economic and cultural matters, including religious assistance in the Armed

Forces and military service of members of the clergy.<sup>12</sup>

The Spanish government has also reached agreements with the country's other religions through the following pieces of legislation: Law 24/1992 approving the Cooperation Agreement with the Federation of Evangelical Religious Entities of Spain,<sup>13</sup> Law 25/1992 approving the Cooperation Agreement with the Federation of Israelite Communities of Spain,<sup>14</sup> and Law 26/1992 approving the Cooperation Agreement with the Islamic Commission of Spain.<sup>15</sup>

## INCIDENTS AND DEVELOPMENTS

In 2019 and 2020, a similar number of acts of vandalism against churches and properties of the Catholic Church was reported as in previous years, including, among others, desecrations, robberies and graffiti.

Physical attacks were not isolated incidents since they have occurred in practically every Spanish region, and under Spanish law they could be classified as hate crimes.

Offensive graffiti on the external walls and façades of churches and religious buildings were the most common offence, ranging from the largest or most archetypal

churches, such as the facade of the Cathedral of Santiago de Compostela<sup>16</sup> in March 2019, to smaller buildings including the convent of the Poor Clares in Almería.<sup>17</sup> In most cases, the perpetrators of such acts of vandalism remain unknown.

It is also important to note acts of desecration of the Blessed Sacrament, with consecrated hosts stolen or damaged in provinces like Cuenca<sup>18</sup> and Jaén,<sup>19</sup> just to name a few, as well as physical attacks against priests, albeit without serious consequences, as was the case in Palma de Mallorca in April 2019.<sup>20</sup>

Such acts of vandalism, as well as verbal insults in the media tended to increase significantly in connection with Christian holidays like Christmas,<sup>21</sup> Palm Sunday,<sup>22</sup> Easter Sunday, and Corpus Christi. Several acts of verbal attacks and vandalism<sup>23</sup> were reported on 8th March 2020, International Women's Day, against churches<sup>24</sup> and her representatives.<sup>25</sup>

The most significant development in the past few years has to do with ongoing educational reforms pursued by Spain's current coalition government (PSOE-Unidas Podemos) in which, for the first time in a democracy, civil society, most notably its community of educators, was excluded from the debates in parliament.<sup>26</sup>

The Minister of Education, Isabel Celaá, publicly denied that parents had a constitutional right to choose the religious education of their children,<sup>27</sup> despite the fact that this principle is enshrined in Article 27 (3) of the Constitution.<sup>28</sup>

Parents' organisations, employers' associations and private schools' associations and their main unions joined forces to directly oppose this new law because it violates freedom of choice and imposes a single model of education.<sup>29</sup>

The new education law also inhibits subsidised private education.<sup>30</sup> To date the notion of "social demand" took into account the discernment of families when choosing a certain school for their children,<sup>31</sup> from now on the state alone will determine agreements with educational establishments.

The bill also strips religion of its academic value as a subject, despite the fact that its teaching in schools is covered by the Agreement between Spain and the Holy See.<sup>32</sup> According to the draft law, religion will no longer be mandatory and its grades will no longer count for access to university or for scholarships.<sup>33</sup> In addition, students who do not choose this subject will not be required to enrol in a

comparable subject as is currently the case.

The Catholic Bishops' Conference of Spain (Conferencia Episcopal Española, CEE) spoke out on numerous occasions warning of setbacks to freedom of religion and freedom of education. The Secretary-General of the CEE, Archbishop Luis Argoello, stated that these proposals "close the freedom of parents to choose for their children an education that is in accordance with their moral and religious convictions."<sup>34</sup> Calling for an educational pact, the Conference presented a proposal on the subject of religion.<sup>35</sup> At the time this report was written, the bill was still before parliament.

Over the past two years, the Catholic Church has been the object of a political campaign in connection with an historical Real Estate Tax exemption (Impuesto de Bienes Inmuebles or IBI) on its property assets. Normally accorded all institutions, organisations, political parties and associations that have a social purpose, the Unidas Podemos party presented proposals in regional parliaments<sup>36</sup> and the city councils of Cádiz,<sup>37</sup> Zaragoza,<sup>38</sup> and Valencia,<sup>39</sup> among others, as well as in the European Parliament,<sup>40</sup> to force the Catholic Church to pay the IBI. To date the initiative is without success.

In a jointly agreed political platform the two ruling left-wing parties, the Spanish Socialist Workers' Party (PSOE) and the United We Can party (Unidas Podemos), continue to push for changes to this law purportedly to "facilitate the recovery of those assets improperly registered by the Church based on the privilege of registering assets in the Property Registry starting with simple declarations of its own members."<sup>41</sup> Despite repeated requests, the government has yet to publish the list of almost 35,000 properties registered by the Catholic Church between 1998 and 2015.<sup>42</sup>

In 2020, an interim report by the Court of Auditors (Tribunal de Cuentas) accused the Catholic Church of failing to comply with the law with respect to the way it used tax money received. Months later, the tribunal rectified its position.<sup>43</sup>

Regarding the effects of the coronavirus pandemic on religious freedom, the main issue has been the fact that more restrictive measures have been imposed on religious services than on other civic activities. For example, during the lockdown in Barcelona, the Catalan government (Generalitat) only allowed a maximum of ten people to take part in a funeral Mass in July 2020 at the Sagrada Familia Basilica,

whilst a day earlier, tourists were allowed in up to 50% of its capacity. The Archdiocese of Barcelona celebrated the funeral at a 23% capacity.<sup>44</sup> After filing a case against the Church in Barcelona, Catalan authorities later increased the allowed capacity to a third for Eucharistic celebrations.

In Ibiza, health authorities shut down two parishes in a restricted area; the local diocese described the measure as an attack against religious freedom and filed an appeal.<sup>45</sup> In Salamanca and Valladolid, the number of participants allowed to attend religious services was limited to 25 people during the COVID-19 outbreak, which the Church considered disproportionate.<sup>46</sup> Eventually, participation was allowed up to one third capacity.

For the first time, instead of a religious state funeral for the more than 40,000 Spaniards who died from the coronavirus pandemic, the government held a “civil state ceremony,” a secular tribute in their memory.<sup>47</sup>

With respect to Islam, the latest report from the Andalusian Observatory of the Union of Islamic Communities of Spain<sup>48</sup> (Observatorio Andalusi, Unión de Comunidades Islámicas de España) highlighted the growth of “Islamophobia” on the Internet and even more so on social media, especially against women wearing hijabs. Generally, mass media continue stereotypes and biases allegedly using journalistic expressions that show “a lack of knowledge about Islam” or carry “negative overtones”.<sup>49</sup>

Muslims and their properties continued to be the target of violent attacks. In schools, critics noted, Islam was treated without proper clarity, whilst municipal authorities still failed to provide Muslims with space for their places of worship and cemeteries.

According to the Federation of Jewish Communities of Spain (Federación de Comunidades Judías de España), anti-Semitic actions continue unabated as in previous years. The Internet and social media have become platforms where hatred and rejection of Jews are expressed with greater frequency and impunity.<sup>50</sup> Still, police reported only one physical attack against a woman in 2019. On a positive note, Spain accepted the notion of anti-Semitism as defined by the International Holocaust Remembrance Alliance.<sup>51</sup>

Although religious freedom is guaranteed in Spain, there is great concern over the current government’s interest in changing the a-confessional nature of the state, as recognised in the Constitution, to that of a secularist state.<sup>52</sup>

Proposals including reforming the education law impacting the freedom of parents to choose an education for their children in accordance with their religious convictions, and excluding religion as a subject matter from the academic curriculum, are conditions indicative of a restriction on freedom of religion and a lack of pluralism, both of which of concern in a mature democracy.

## PROSPECTS FOR RELIGIOUS FREEDOM

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