



ADF INTERNATIONAL

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SPAIN

Submission by:



ADF INTERNATIONAL



WORLD EVANGELICAL ALLIANCE



Alianza Evangélica
Española

Introduction

1. ADF International is a faith-based legal advocacy organization that protects fundamental freedoms and promotes the inherent dignity of all people. As well as having ECOSOC consultative status with the United Nations (registered name “Alliance Defending Freedom”), ADF International has accreditation with the European Commission and Parliament, the Organization for Security and Co-operation in Europe, and the Organization of American States and is a participant in the FRA Fundamental Rights Platform.
2. The World Evangelical Alliance (WEA) was founded in 1846 in London. Today, the WEA is a network of churches in 129 nations that have each formed an evangelical alliance and over 100 international organizations joining together to give a world-wide identity, voice, and platform to more than 600 million evangelical Christians worldwide.
3. The Spanish Evangelical Alliance (AEE) was founded in 1877 and is a member of the World Evangelical Alliance (WEA) and the European Evangelical Alliance (EEA). Its focus lies in defending freedom of conscience and freedom of religion or belief, promoting Evangelical unity and offering biblical answers to contemporary societal challenges.
4. This report explains why Spain must safeguard the human rights to freedom of religion, freedom of association, and freedom of expression and end the discrimination Protestants face in pension treatment, and protect the places of worship of all religious communities.

(a) Freedom of Religion or Belief

5. Section 16 of the Spanish Constitution guarantees the freedom to religion and worship.¹
6. Spain signed the International Covenant on Civil and Political Rights (“ICCPR”) in 1976 and ratified it in 1977. ICCPR Article 18 guarantees the right to freedom of religion or belief, including the right to manifest one’s religion or belief—whether in public or in private. Article 19 ensures that all people have the right to freedom of expression and to hold opinions without governmental interference. Lastly, Article 22 guarantees the right to freedom of association. Government discrimination towards certain religions is not sufficient justification for limiting this fundamental human right guaranteed under international law.
7. 69.8% of Spain’s population identify as Roman Catholic. Under Francisco Franco’s regime from 1939 to 1975, non-Catholic Christians faced discrimination, and non-Catholic ministers were not recognized.² The situation persisted until 1999, but dozens of pastors, unlike their Catholic Priest counterparts,³ are still excluded from the pension system in Spain.

¹ Constitution of Spain, Art 16.

² Vincent, M.M., *Ungodly Citizens: Protestants in National-Catholic Spain, 1939-53*, 45 *European History Quarterly* (1) (2015).

³ *Evangelical Focus*, *Pension for Retired Pastors Recognised*, (19 May 2015).

8. In 2004, the Spanish Church of Spain supported the case of a pastor affected by this situation. The case of pastor Martin Manzananas went on to the European Court of Human Rights (ECtHR), where Spain was condemned in 2012, as the Court considered that Spain had violated art. 1 of Protocol n°1 (protection of property), in combination with art. 14 of the Convention (non-discrimination).
9. Even after the ECtHR's decision, the situation of the pastors has not been settled. This led to a Royal Decree adopted in 2015 in attempt to resolve the problem; however, the decree set requirements that not a single pastor was able to fulfill, and was annulled in 2017.
10. Spain has yet to change its legislation effectively.⁴ Such discrimination jeopardizes the ability of evangelical pastors and their congregations to operate on an equal footing with other religious denominations, and hinders the maintenance of an open and free society.

(b) Places of Worship

11. The autonomous region of Cataluña has passed a legislation on places of worship, Law 16/2009, revised in 2014, complemented by Decree 94/2010, that includes very strict safety regulations for places of worship. These regulations include detailed provisions about fire safety, maximal capacity of visitors, thermic and water isolation, phonic isolation, ventilation and climatization, minimal number of hygiene rooms, access road, parking etc. A license provided by the municipalities is needed for all new places of worship or for existing buildings undergoing a renovation or existing buildings where a religious community would be meeting for the first time. Local mayors who find that a place of worship is not in conformity with the law, have the capacity to decide its forced closure.
12. In 2014, the Parliament of Cataluña decided that places of worship established before 2010 have until the end of 2019 to bring their existing buildings in conformity with the law in order to obtain the municipal license necessary to pursue their activities.
13. The law provides for an exception for places of worship benefiting from a cooperation agreement between Spain and the Holy See. Thus in practice, only religious minorities are concerned by these legislations. Only very few new places of worship were able to open since the new legislation was passed. Very few existing places of worship meet the requirements provided in the law. Hundreds of places of worship are concerned. Mayors will have a discretionary power to decide to close places of worship that have not been able to conform to these regulations. Other autonomies such as the Basque Country are exploring the possibility to follow the same route as Cataluña.
14. On the basis of the Catalanian legislation, some municipalities have enacted municipal laws going even further. In the city of L'Hospitalet de Llobregat, the municipal law provides that places of worship are not authorized in urban residential zone. It also provides, amongst other regulation, that there must be a minimum distance of 250m between two places of worship. In l'Hospitalet de Llobregat, only 9 places of worship

⁴ Video Launch: Justice for Spanish Pastors, a short documentary that sheds light on the fate of Protestant pastors seeking justice and equal treatment in Spain” <https://www.ceceurope.org/video-launch-justice-for-spanish-pastors>.

currently hold the required municipal license, while the city hosts over 60 places of worship, meaning that over 80% of places of worship face a risk of forced closure.

(c) Recommendations

15. In light of the foregoing, the undersigned organizations suggest the following recommendations be made to Spain:

- a. Ensure the freedom of religion or belief in Spain, both in law and in practice, for adherents of all religions, and root out all cases of religious discrimination in laws against members of religious minorities;
- b. Fulfill the right to social security of protestant pastors who were discriminated during and after Franco's regime and who have been excluded from access to the pension system.
- c. Foster an environment of religious harmony and cooperation, and cease discriminating against individuals or communities on the basis of their religious denominations;
- d. Repeal the Catalanian legislation on places of worship and bring current legislation in conformity with international human rights instruments pertaining to the protection of the right to freedom of religion or belief, which includes the right to worship in community with other, in public or in private and refrain from any discriminatory provisions targeting religious minorities,