

UPR  
SPAIN

# FREEDOM OF EXPRESSION REPORT



Submitted by:



Plataforma en **defensa** de  
la libertad de información  
...porque sin libertad de información no hay democracia

**FeSP**

Federación de Sindicatos de Periodistas

access  
**!Nfo**

**GEPC**



UNIVERSIDAD  
COMPLUTENSE  
MADRID

## Recommendations assumed by Spain regarding freedom of expression in the second cycle of UPR

**131.08** “Decriminalize defamation and transfer it to the Civil Code in accordance with international standards”

**131.11** “Modify the Law on Citizen Security so that freedom of expression and the right to peaceful assembly are not affected”

**131.113** “Guarantee the full benefit of the rights to freedom of assembly and freedom of expression, facilitate the holding of peaceful meetings and review existing laws or refrain from adopting new laws that restrict or unduly restrain the exercise of freedom of meeting and freedom of expression”

**131.115** “Raise awareness among security forces regarding respect for human rights during demonstrations in order to guarantee the right to peaceful assembly and freedom of expression and association”

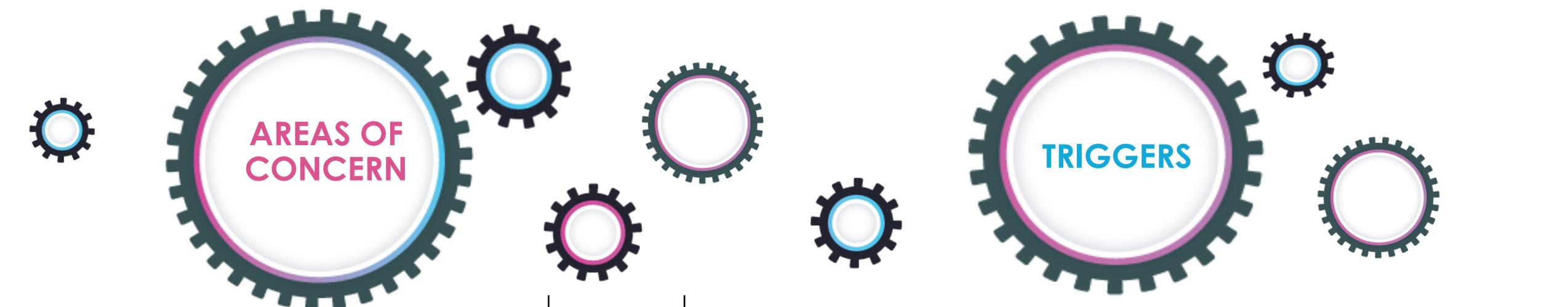
## Degree of compliance

**131.08** Pending full compliance

**131.11** Pending compliance

**131.113** Pending full compliance

**131.115** No significant developments in this field, particularly in collaboration with civil society organizations



## AREAS OF CONCERN

## TRIGGERS

**A. Criminalization of expression based on protection of third party rights and other principles and values**

**B. Administrative legislation on the protection of citizen security**

**C. Criminal norms regarding terrorism and indoctrination**

**D. Right of access to information and public transparency**

**E. Measures for the protection of a secure and pluralistic journalistic environment and media**

**A.** Broadly established, excessive and unjustified restrictions on freedom of expression, particularly affecting certain forms of political and artistic speech and related to:

- Defamation
- Insult and slander regarding State institutions and the Royal Family
- Desecration of national and regional symbols
- Offence of religious feelings
- Hate speech

**B.** Extensive and excessive use of provisions contained in the Organic Law 4/2015 (known as Gag Law), which penalises the unauthorized use of images and other data related to members of security forces, as well as disrespect towards them, having a negative impact on journalists' reporting

**C.** Extensive interpretation and enforcement of apology and exaltation of terrorist acts provisions has led to the criminalization of political speech and artistic performances with no connection with actual terrorist activities or groups

**D.** Lack of recognition of the right to access information as a fundamental right, lack of control and sanction powers by the supervisory authority and the excess of requirements for the exercise of this right

**E.** Lack of a general legal framework that establishes protection and guarantees for all those who carry out journalistic activities, whether as a paid professional activity or in any other way

No legal or administrative framework that allows the effective existence of community media service in the Spanish system

# MAIN RECOMMENDATIONS



## Criminalization of expression based on the protection of third party rights and other principles and values

Repeal provisions in the Criminal Code in the areas of defamation, insult and slander of State Institutions and members of the Royal family, desecration of national and religious symbols and offence of religious feelings.

Reform hate speech provisions to avoid criminalization of protected speech.



## Administrative legislation on the protection of citizen security

Repeal provisions included in the Gag Law which interfere with and penalize legitimate reporting by journalists.



## Criminal norms in the field of terrorism and indoctrination

Modify applicable legislation to limit criminal prosecution to cases of direct and verifiable incitement to the performance of terror acts, thus eliminating direct or abstract forms consisting of exaltation or justification.

Repeal provisions establishing the crime of humiliation, contempt or disregard of the victims of terrorism.

Eliminate from the Criminal Code the penalization of the mere consultation and passive reception of terrorist content.



## Right of access to information and public transparency

Reform relevant legislation to recognize the right of access to information as a fundamental right linked to article 20.1 of the Constitution and the international standards for the protection of the right to information.

Reform applicable legislation to expand the powers of the Transparency Council regarding supervision of compliance with the obligations of access to information, including penalty and powers.



## Measures for the protection of a secure and pluralistic journalistic environment and media

Adopt a general legal framework that establishes protection and guarantees for all those who carry out journalistic activities, especially the right of protecting information sources. An adequate protection system for whistleblowers must also be included.

An adequate protection system for Spain must adopt all legal and administrative instruments that will allow the award of licences and the operation of non-profit community media.

**Thank you!**