

Contribution to European Commission's Rule of Law report

2025



UNITED NATIONS
HUMAN RIGHTS
Regional Office Europe

RULE OF LAW & HUMAN RIGHTS

The 'rule of law' is a concept at the heart of the United Nations' mission. It refers to a principle of governance which is consistent with international human rights standards ([S/2004/616](#)). There is no rule of law within societies if human rights are not protected and human rights cannot be protected in societies without a strong rule of law. This interlinkage is reiterated by the UN Secretary-General in his [New Vision for the Rule of Law](#): *"Human rights and the rule of law are mutually reinforcing – the advancement of the rule of law is essential for the protection of all human rights, and human rights are central to the rule of law."*

The Office of the UN High Commissioner for Human Rights (OHCHR), also known as UN Human Rights Office, is mandated by the UN General Assembly to promote and protect the enjoyment and full realization, by all people, of all human rights. As part of its mandate, OHCHR works to mainstream human rights to strengthen the rule of law ([Management Plan 2024 - 2027](#)).

Established in 2009, OHCHR Regional Office for Europe (ROE) aims to advance the protection and promotion of human rights in the European Union and its member States. ROE works to mainstream international human rights standards to strengthen the rule of law in the EU by engaging in and contributing to the European Commission's Rule of Law Report. ROE furthermore promotes the UN human rights mechanisms and processes by giving their work visibility at the regional level.

OHCHR ROE'S CONTRIBUTION

The contribution by OHCHR Regional Office for Europe (ROE) is grounded in the Universal Declaration of Human Rights and nine international human rights treaties:

- International Covenant on Civil and Political Rights (ICCPR)
- International Covenant on Economic, Social and Cultural Rights (ICESCR)
- International Convention on the Elimination of All Forms of Racial Discrimination (ICERD)
- Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- Convention on the Rights of the Child (CAT)
- Convention on the Rights of Persons with Disabilities (CERD)
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (ICMW)
- International Convention for the Protection of All Persons from Enforced Disappearance (CPED)

The current submission consists of a compilation of findings and recommendations contained in reports of UN international human rights mechanisms including human rights treaty bodies, special procedures and the Universal Periodic Review of the UN Human Rights Council. It also includes statements and reports by the UN High Commissioner for Human Rights and his Office.

UN HUMAN RIGHTS MECHANISM

Each of the nine international human rights treaties creates a **human rights treaty body or committee of independent experts** to monitor the implementation of the provisions of the treaty. With the support from OHCHR, the treaty bodies:

- consider reports submitted by State parties detailing how they are implementing the treaty;
- adopt general comments interpreting the treaty provisions, and organize discussions on themes related to the treaties; and
- consider complaints (communications) from individuals alleging that their rights have been violated by a State party, provided that the State has accepted the complaints procedure.

The **UN Human Rights Council (HRC)** is a subsidiary body of the UN General Assembly and the main intergovernmental body within the UN responsible for human rights. It meets at the UN Office at Geneva in three regular sessions each year, and may convene special sessions to respond to urgent human rights situations. The HRC benefits from substantive, technical, and secretariat support from OHCHR.

The **special procedures of the UN Human Rights Council** are independent human rights experts with mandates to report and advise on human rights from a thematic or country-specific perspective. As of November 2024, there are 46 thematic and 14 country mandates. With the support of OHCHR, special procedures undertake country visits, act on individual cases of alleged violations and concerns of a broader nature by sending communications (letters of allegation) to States and other entities; contribute to the development of international human rights standards; and engage in advocacy.

The **Universal Periodic Review (UPR) of the UN Human Rights Council** is a State-led mechanism that conducts a peer review of the human rights situation of each UN Member State once every 4.5 years. It is carried out by the UPR Working Group of the Human Rights Council. In each review, the State under review reports on the actions it has taken to improve its human rights situation and overcome challenges to the enjoyment of human rights. It also receives recommendations from UN Member States for improvement. In addition to the national reports of States under review, the UPR is informed by compilations of stakeholder information and United Nations system reports.

In recent years, States have established **National Mechanisms for Implementation, Reporting and Follow-up (NMIRF)**, some of whom with the technical assistance of UN Office of the High Commissioner for Human Rights (OHCHR). This mechanism, which is often based within the ministry of foreign affairs, has a mandate which includes following-up on all treaty body obligations, UPR recommendations, as well as recommendations from other international and regional human rights mechanisms, and generally works closely with government ministries, national human rights institutions and civil society organizations. (See: [*National Mechanisms for Reporting and Follow-up: A Study of State engagement with International Human Rights Mechanisms; A Practical Guide to Effective State Engagement with International Human Rights Mechanisms*](#))

The **Office of the UN High Commissioner for Human Rights (OHCHR)** also known as **UN Human Rights Office** is the main human rights entity of the UN to protect and promote all human rights for everyone everywhere. The High Commissioner for Human Rights leads OHCHR. He is the principal human rights official of the United Nations.

INSIDE THE CONTRIBUTION

SPAIN

- Period of contribution: January - December 2024
- Contents of contribution:
 - The Human Rights Committee (CCPR) adopted an individual communication on the right to have a criminal judgment reviewed by a higher court ([CCPR/C/140/D/3101/2018](#)) on 13 March 2024.
 - The Human Rights Committee (CCPR) adopted an individual communication on fair trial for business owner convicted of political corruption-related offences ([CCPR/C/140/D/4063/2021](#)) on 28 March 2024.
 - The Committee on the Rights of Persons with Disabilities (CRPD) adopted an individual communication on procedural accommodations and support to ensure access to justice for a person with intellectual disabilities ([CRPD/C/31/D/69/2019](#)) on 10 October 2024.
 - The special procedures of the UN Human Rights Council sent a communication letter to Spain ([ESP 5/2025](#), in Spanish only) dated 29 August 2024 concerning online threats and attacks against the child human rights defender, Francisco Vera.
 - The special procedures of the UN Human Rights Council sent a communication letter to Spain ([ESP 1/2024](#), in Spanish only) dated 12 February 2024 concerning security incidents, including surveillance, hacking and a physical attack, against human rights defender Helena Maleno Garzón in Spain, and her ban from entering the Moroccan State.
- Forthcoming relevant information (January - May 2025):
 - The Committee on the Rights of Child will review State report from Spain at its 98th Session (13 - 31 January 2025).
- Resources:
 - [Rule of Law in Europe | OHCHR](#)
 - OHCHR country page - [Spain](#)
 - [Universal Human Rights Index \(UHRI\)](#) allows you to explore over 230.000 observations and recommendations made by the international human rights protection system (treaty bodies, special procedures and the Universal Periodic Review)

Pillar I: JUSTICE SYSTEM

There is no true respect for the rule of law without a judicial power guaranteeing compliance therewith. Judges guarantee compliance with laws and with it the reality of democratic coexistence. The duty to promote equality among all persons, especially to ensure that everyone has the right to access justice on an equal basis with others, rests with the judiciary. Guaranteeing access to justice is indispensable to democratic governance and the rule of law, as well as to combating inequality and exclusion.

Respecting the rule of law through fostering the separation of powers and the independence of justice ensures protection of human rights. The judiciary is the ultimate guarantors of human rights. However, at the same time, judges, prosecutors and lawyers are subject to attacks and violations of their rights, including threats, intimidation, external interference in conducting their professional activities, arbitrary detention, prosecution, and killings. These attacks threaten the impartiality and independence of the judiciary and the legal profession and in turn, deter their role as guarantors of human rights and the rule of law.

For more info:

- [Basic Principles on the Independence of the Judiciary](#)
- [Human rights in the administration of justice: a manual on human rights for judges, prosecutors and lawyers](#)
- [International principles and guidelines on access to justice for persons with disabilities](#)
- [General Recommendation No. 33 on women's access to justice \(CEDAW/C/GC/33\)](#)
- [Special Rapporteur on the independence of judges and lawyers](#)

Quality of justice – training of justice professionals

- In a communication ([CRPD/C/31/D/69/2019](#)), the Committee on the Rights of Persons with Disabilities (CRPD) considered whether the State party has violated the author's rights by failing to provide him with the procedural accommodations that he needed to ensure that, as a person with a disability, he had access to justice and to information and communication on an equal basis with others as he was being tried:
 - Esteban Ruiz Suárez, a national of Spain born on 23 July 1980, has an intellectual disability. His official disability rating of 73 per cent was determined in accordance with Spanish regulations. On 26 July 2013, the Civil Guard arrested Mr. Suárez for his alleged involvement in the burglary crime. During the initial stages of the criminal proceedings – the arrest and the taking of statements at the police station, the taking of statements before the judge and the hearing held to decide whether to place the author in pretrial detention – no account was taken of Mr. Suárez's intellectual disability, which went unnoticed. No reasonable adjustments were made to ensure that he could participate in the proceedings, and technical vocabulary hard to understand for a person with an intellectual disability was used. ([CRPD/C/31/D/69/2019](#), paras. 2.1 – 2.4)
 - The Committee also notes Mr. Suárez's argument that the failure to take his intellectual disability into account during the proceedings indicates a lack of disability training for those working in the field of administration of justice. The Committee notes in this respect that the State party contends that it has set in motion various initiatives to provide judges with training on disability issues, including as part of the teaching plan of the Judicial Training College. The Committee notes, however, that most of these initiatives are ad hoc initiatives that do not appear to be part of an in-service training programme for all those working in the field of administration of justice. ([CRPD/C/31/D/69/2019](#), para.7.5)

- The Committee notes that, under article 13 (1) of the Convention, States parties must ensure effective access to justice for persons with disabilities on an equal basis with others, including through the provision of procedural and age-appropriate accommodations, in order to facilitate their effective role as direct and indirect participants in all legal proceedings, including at investigative and other preliminary stages. The Committee notes, too, that, pursuant to article 13 (2), in order to help to ensure effective access to justice for persons with disabilities, States parties must promote appropriate training for those working in the field of administration of justice, including police and prison staff. ([CRPD/C/31/D/69/2019](#), para.7.6)

Other - the judge's right of appeal and the right to have a criminal judgment reviewed by a higher court

- In a communication ([CCPR/C/140/D/3101/2018](#)), the Human Rights Committee considered a case involving a judge and his right to have a criminal judgment which convicted him, reviewed by a higher court:
 - The author is a judge in the Administrative Division of the High Court of Justice of Catalonia and, in 2012, was tried in sole instance for the offence of dealings and activities prohibited for public servants and abuse of public office. The author emphasizes that the necessary legislative amendments have not yet been made to provide an effective remedy for officials with parliamentary privilege whose criminal cases are tried in sole instance by the Supreme Court. ([CCPR/C/140/D/3101/2018](#)) paras. 2.1 and 3.2)
 - The Committee recalls that article 14 (5) of the Covenant provides that anyone convicted of an offence has the right to have their conviction and sentence reviewed by a higher tribunal according to law. The Committee also recalls that the phrase “according to law” is not intended to mean that the very existence of a right to review should be left to the discretion of States parties. Although a State party’s legislation may provide, in certain circumstances, for the trial of an individual, because of his or her position, by a higher court than would normally be the case, this circumstance alone does not imply a renunciation of the defendant’s right to have his or her conviction and sentence reviewed by a higher court. In the present case, the Committee notes that there was no available effective remedy whereby the author could request that his conviction and sentence be reviewed by a higher court. Accordingly, the Committee finds that the State party violated the author’s rights under article 14 (5) of the Covenant ([CCPR/C/140/D/3101/2018](#)) paras. 7.3)

Pillar II: ANTI-CORRUPTION

Corruption has a destructive effect on State institutions and it undermines the functioning and legitimacy of institutions and processes, the rule of law and ultimately the State itself. In particular, corruption effects on the capacity of States to respect, protect and fulfil human rights particularly of those persons and groups in situation of vulnerability and marginalization.

Corruption pose a major challenge to many societies as they divert public revenues and cripple public budgets that should provide healthcare, housing, education, and other essential services, they undermine States’ ability to meet their minimum core obligations and their pre-existing legal obligations to maximize all available resources to respect, protect and fulfil human rights.

For more info:

- [Corruption and human rights | OHCHR](#)
- [OHCHR Key messages on the negative impact of corruption in the enjoyment of human rights](#)

Others – high-level corruption case

- In a communication ([CCPR/C/140/D/4063/2021](#)), the Human Rights Committee dismissed the communication on fair trial for business owner convicted of political corruption-related offences (who is accused of being the leader of a corruption scheme known as the Gürtel case) based on article 5 of the Optional Protocol on International Covenant on Civil and Political Rights which excludes the Committee's competence in relation to cases where the same matter has been or is being examined under another procedure of international investigation or settlement. (para. 6.2)

Pillar III: MEDIA FREEDOM

Free, independent, plural and diverse media are a core component of the right to freedom of expression, a cornerstone of democratic societies and plays an essential role in strengthening the rule of law. Journalists and the media are crucial to ensure transparency and accountability for public and governmental authorities.

For more info:

- [OHCHR and the safety of journalists and the issue of impunity](#)
- [Special Rapporteur on freedom of opinion and expression](#)
- [General comment No.34 on Article 19: Freedoms of opinion and expression \(CCPR/C/GC/34\)](#)

There is no relevant information under this pillar for the coverage period.

Pillar IV: CHECKS AND BALANCES

Civic space is the environment that enables civil society to play a role in the political, economic and social life of our societies. In particular, civic space allows individuals and groups to contribute to policy-making that affects their lives, including by: (1) accessing information; (2) engaging in dialogue; (3) expressing dissent or disagreement, and (4) joining together to express their views. An open and pluralistic civic space that guarantees freedom of expression and opinion as well as freedom of assembly and association, is a prerequisite for making development and peace sustainable.

For more info:

- [OHCHR and protecting and expanding civic space](#)
- [Special Rapporteur on human rights defenders](#)
- [The Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms](#)

The enabling framework for civil society - measures to protect civil society organization and human rights defenders from attack

- The special procedures of the UN Human Rights Council sent a communication letter to Spain ([ESP 5/2025](#), in Spanish only) dated 29 August 2024 concerning online threats and attacks against the child human rights defender, Francisco Vera:
 - Francisco Vera es un niño defensor de derechos humanos de 15 años que defiende la justicia climática, conservación de la naturaleza, el derecho a un medio ambiente limpio, sano y sostenible, y los derechos de los niños y las niñas. Empezó su trabajo como defensor ambiental a los 9 años, cuando fundó ‘Guardianes de la Vida’, un movimiento de niños, niñas y adolescentes con el objetivo de trabajar por la justicia climática, para sensibilizar a la juventud y hacer incidencia política. En 2019, Francisco Vera intervino en nombre del movimiento en una sesión plenaria del Congreso de la República de Colombia, donde defendió el derecho a la vida en el contexto del cambio climático. Fue designado Embajador de buena voluntad de la Delegación de la Unión Europea en Colombia, el primer defensor de la acción climática para América Latina y el Caribe de Unicef, y Joven campeón de la Campaña OurVoiceOurFuture del Servicio Europeo de Acción Exterior. En 2023, fue asesor del Comité de los Derechos del Niño durante el proceso preparatorio de la observación general 26 (2023) sobre los derechos de la niñez y el medio ambiente, con atención especial al cambio climático.
 - El 15 de enero de 2021, Francisco Vera recibió una amenaza de muerte desde una cuenta anónima de X (Twitter) tras publicar un vídeo en el que felicitaba al Presidente de Colombia el Sr. Iván Duque por su decisión de mantener las medidas de virtualidad para prevenir la trasmisión de Covid-19 así como la mejora de la conectividad en los territorios para asegurar condiciones de estudio más dignas. El tuit se difundió rápidamente y suscitó respuestas de las autoridades, incluyendo un tuit del entonces Presidente de la Republica el Sr. Iván Duque, donde rechazó “categóricamente” las amenazas.
 - En noviembre de 2022, durante la COP27 en Egipto, se difundió información falsa en línea, alegando que la madre del niño defensor lo había drogado y dado alcohol. También fueron publicados comentarios sexuales e inapropiados sobre él, comentarios homofóbicos y otros incitando a la violencia en su contra, y acusaciones de y acusaciones de robar gallinas, practicar la zoofilia y formar parte de la guerrilla.
 - A lo largo de 2022, 2023 y 2024, tales ataques digitales y amenazas de muerte en línea en contra de Francisco Vera siguieron. También se difundió información falsa alegando que la mamá del niño le daba hormonas que no creciera y así poder explotarlo económicamente.
 - En enero y febrero de 2024, un político publicó numerosos tuits sobre Francisco Vera, con comentarios sexuales y señalándole como terrorista, comunista y guerrillero. Alrededor de esa misma época, publicó una foto manipulada de Francisco Vera y Gustavo Petro de 2019 en el Congreso de Colombia para que el Sr. Petro pareciera el contribuyendo a la narrativa según la cual Francisco Vera sería un guerrillero.
 - El 8 de marzo de 2024, una persona hizo un tuit incitando a la violencia en contra de Francisco Vera que luego fue respondido por un político vinculando a Francisco Vera con Gustavo Petro. Esto inició una ola de comentarios violentos en contra de Francisco Vera, ya este ideólogo es una figura pública y reconocida con seguidores de países en Argentina y España. Una persona de nacionalidad española luego respondió publicando una foto de Francisco Vera junto con unos mensajes amenazantes, entre ellos señalando que “tienes los días contados”.
 - El 10 de marzo de 2024, Francisco Vera escribió por WhatsApp a para informarle sobre el incidente con el ideólogo mencionado arriba. En su respuesta, la se refirió a los tuits como “estas discusiones tan estúpidas” y restó importancia a la gravedad de las amenazas.
- The special procedures of the UN Human Rights Council sent a communication letter to Spain ([ESP 1/2024](#) in Spanish only) dated 12 February 2024 concerning Information received regarding security incidents, including surveillance, hacking and a physical attack, against human rights defender Helena Maleno Garzón in Spain, and her ban from entering the Moroccan State:
 - La Sra. Helena Maleno Garzón es una periodista, investigadora y defensora de los derechos humanos de nacionalidad española. Su trabajo se enfoca en los derechos de los refugiados, migrantes y solicitantes de asilo. Es fundadora y directora ejecutiva del Colectivo Ca-minando Fronteras, un colectivo que promueve el derecho a la vida de las personas migrantes en la frontera occidental

euroafricana, principalmente entre el norte de África y España. Asimismo, el colectivo fundado por la Sra. Maleno Garzón trabaja en conjunto con las comunidades migrantes en la búsqueda de justicia para quienes sufren violaciones de los derechos humanos en el camino migratorio, y ofrece apoyo a quienes pierden un ser querido en la frontera, ya sea por muerte o desaparición.

- El 11 de diciembre de 2018, el Tribunal de Apelaciones de Tánger en primera instancia cerró un caso penal en contra de la Sra. Maleno Garzón en Marruecos por los supuestos delitos de favorecimiento de la inmigración clandestina y tráfico de personas. Este caso penal se basaba en informes policiales tanto españoles como marroquíes. El juez del Tribunal de Apelaciones archivó la causa, tras sentenciar que no había delito en las actividades de la Sra. Maleno Garzón. La Fiscalía marroquí recurrió esta decisión, pero en marzo de 2019, en la sala de apelaciones del mismo tribunal, se cerró definitivamente.
- Durante este procedimiento penal, la Sra. Maleno Garzón fue privada de su permiso de residencia en Marruecos. Asimismo, se le bloqueó el acceso a sus cuentas bancarias en Marruecos y se activaron alertas policiales vinculadas a su pasaporte. Por lo tanto, la Sra. Maleno Garzón estaba sometida a controles policiales cada vez que se desplazaba fuera del país. Estos controles obstaculizaban su trabajo, dado que la Sra. Maleno Garzón viajaba con frecuencia a España y otros países para llevar a cabo su trabajo.
- Mientras tanto, la Sra. Maleno Garzón tuvo varios incidentes de vigilancia y seguimiento tanto en Marruecos como en España. También sufrió incidentes de seguridad en otros lugares: en septiembre de 2019 en Bruselas, donde asistía a un evento para exponer su caso antes varias autoridades europeas, la Sra. Maleno Garzón fue vigilada en su hotel.
- El 23 de enero de 2021, cuando la Sra. Maleno Garzón volvía a su domicilio en Tánger desde Madrid, fue detenida en el aeropuerto de Tánger por horas y deportada a España. Durante su detención en el aeropuerto y su deportación por avión, se le negó el acceso a los medicamentos que necesitaba tomar y a agua tanto por parte de la policía marroquí y española. Su deportación la separó forzosamente de su hija menor de edad, que se encontraba entonces en Tánger, durante 32 días hasta que su hija pudo salir del país hacia España.
- La Sra. Maleno Garzón interpuso una apelación a su deportación y expulsión de Marruecos, que llevó a un proceso administrativo para restablecer su derecho a viajar y residir en Marruecos. A inicios de 2023, tras este proceso, llegó la resolución por parte de las autoridades marroquíes de mantener la prohibición de entrada en el país de la Sra. Maleno Garzón y de sus hijos por considerarla una supuesta amenaza hacia el orden público. Hasta la fecha, se le ha negado a la Sra. Maleno Garzón volver a Marruecos y tener acceso a sus cuentas bancarias marroquíes, a pesar de que los tribunales de Marruecos y de España no han apreciado ningún delito en las actividades de la Sra. Maleno Garzón.
- Los incidentes de seguridad de la Sra. Maleno Garzón en España se multiplicaron en el año 2023. Se produjeron dos hackeos de sus dispositivos de trabajo, en febrero y julio de 2023, a pesar de las medidas de seguridad antivirus que tenían. En mayo de 2023, sufrió un ataque físico en su residencia en España donde vive con su hija de menor edad. Al entrar a su edificio, un hombre desconocido estaba escondido detrás de los buzones y se abalanzó sobre ella. Mientras un vecino del edificio llegaba al portal, el desconocido se fue rápidamente del edificio. En octubre de 2023, cuando la Sra. Maleno Garzón estaba en Las Palmas de Gran Canaria para un evento de trabajo, también fue seguida en la calle y el personal del hotel en el que se alojaba confirmaron que se había forzado la puerta de entrada durante la noche. También tuvo incidentes de seguimiento en 2023 en Ginebra cuando participó en un evento en la sede de las Naciones Unidas.