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# **SPAIN: New stricter rape law to be reviewed after rulings reducing jail sentences**

## **New stricter rape law to be reviewed**

*Recent rulings led to reduce some jail sentences; judges accused of 'misapplying the law'*

By Graham Keeley

Euronews (16.11.2022) – <https://bit.ly/3Vca60E> – Spain is to review a new law to give victims of sexual offences more protection after a series of court rulings led to prison sentences being reduced for offenders because of a loophole in the legislation.

The law came into force last month, six years after what became known as the ‘Wolf Pack’ case in which five men gang-raped an 18-year-old woman at the Pamplona bull-running festival but were at first handed a lesser sentence for the crime of sexual abuse.

This case prompted demonstrations across Spain and led the government to change the criminal law on sexual offences.

Known as the ‘yes means yes’ law, the new legislation qualifies any non-consensual sex as rape, bringing Spain into line with 11 other European countries, including Britain, Sweden and Portugal.

The wide-ranging legislation also dealt with sex offences against children and punished catcalling towards women, and proposed re-education of offenders.

However, lawyers for convicted sex offenders used a loophole in the law which allowed for a general reduction of jail sentences when new criminal legislation comes into force in Spain.

***Reductions in jail sentences***

When the law was written, it established minimum and maximum sentences and allowed sex offenders to apply to reduce their sentences retroactively.

In some cases, this meant when the maximum sentence was imposed, it could be reduced by defence lawyers citing the new law.

Lawyers for convicted offenders have sought to exploit this loophole in the law.

Before the law was passed, Spain's General Council of the Judiciary, the ruling body of the judiciary, warned this might happen.

In general, when a new criminal law comes into force, the principle is to apply more lenient sentences. Spain is regarded as having some of the most severe sentences in Europe.

In the latest case, a man who was condemned to eight years in prison for sexually abusing his 13-year-old stepdaughter had his sentence cut by a Madrid court to six years.

In Barcelona, a 28-year-old man, who raped a 60-year-old woman in her own home, was sentenced to three years and ten months. Judges ruled that in line with the new law, the

sentence should be between two and four years.

Judicial authorities in Madrid told Euronews that there were scores of other cases in which sentences would be reviewed.

Maria Jesus Montero, the Spanish Treasury Minister, told the Senate on Tuesday that “after some sentences that were handed down, I think that this issue needs to be studied...because obviously, it was not the objective of the law that the sentences for child abuse could be lowered. Quite the opposite.”

Manuel Cancio Melía, a professor of criminal law at the Autonomous University of Madrid, said when criminal laws changed in Spain, the idea was to reduce sentences in general, but jail terms depended on the circumstances of individual cases.

“I cannot comment on these cases because we will have to see what happens with this law. There have been reductions but also in some cases of sentences being increased,” he told Euronews.

“In some cases, the sentences might be reduced if judges decide intimidation or violence was not used.”

The reductions in jail terms sparked a political row over a law which was championed by Spain’s left-wing government as a way to give victims of sex offences more protection.

## ***'Misapplying the law'***

Ione Belarra, the leader of the far-left Unidas Podemos party, the junior partner in the coalition government which introduced the legislation, accused some judges of misinterpreting the legislation.

“Some of the judges in this country have set themselves up as opposition to the coalition and especially to the Equality Ministry...they are misapplying the law,” she tweeted.

Javier Maroto, the spokesman in the Senate for the conservative opposition People's Party, called for a review of the law next week in the Senate.

“Spaniards are angry at the reduction of sentences for assaults on women and children. This should never have happened. The criminals are rubbing their hands together in glee.”

Under Spain's previous sexual laws, an attacker had to use physical violence or intimidation for an assault to be classified as rape.

One aspect of the new law classes stalking or street harassment, or catcalling in a humiliating way will become crimes instead of misdemeanours.

Gang rape is considered an aggravating factor which could bring sentences of up to 15 years, a measure designed to deter these attacks, which have shocked Spain.

The law has created a four-hour sexual assault helpline and specialised children's homes for underage victims.

Spain's left-wing coalition government has sought to make sexual politics a cornerstone of its policies, but the opposition claims it is not workable.

In the Wolf Pack case, which got its name from the men's WhatsApp group, they were originally convicted of sexual abuse because the court found that they had not used violence or intimidation and were sentenced to nine years in prison.

The verdict sparked immediate demonstrations across Spain.

In 2019, three years after the original attack, the Supreme Court reversed the original verdict and convicted the five of sexual assault or rape and handed down sentences of up to 15 years.

It was not the only gang rape case to horrify the Spanish public.

Another case in Sabadell, a town near Barcelona, caused similar outrage and paved the way towards the law change.

In 2021, three members of a gang that raped an 18-year-old woman in an abandoned industrial unit in the Catalan city in 2019 were jailed for between 13 and 31 years.

*Photo credits: AP Photo/Paul White*

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