

In Spain nudism is another of your Rights

Since 1978 with the coming into force of the current Constitutional Charter it could be assumed that nudism became another of our rights.

But we continued to drag along legislation contrary to nudity in public, inherited from the pro-Franco period. In this way, the offence of public scandal still existed, in the Penal Code, which penalized nudism. This situation led to authorized areas being established, where nudism could be practiced freely without fear of being sanctioned. This offence was modified in 1989 suppressing the moral nature considerations, to adjust it to the Constitution.

Like this, all the authorizations of beaches or Nudist areas, are based on legislation contrary to the Constitution which was corrected in 1989 and which later disappeared in 1995 with the repeal of the previous Penal Code, and the approval of the current one, in which this offence is no longer contemplated. In this way, **all authorizations –and prohibitions– are contrary to the Constitution and they constitute a discrimination.**

It is surprising that the authorizations which allowed the first nudists to enjoy areas where they did not take the risk of colliding with justice, are later the main argument which is used against nudism, since it is professed that as authorized areas or beaches exist, on the rest of the beaches it is not authorized, so it is forbidden. Which is **false**.

At this time there is freedom of nudism in any public area in Spain and no authorization is required

Beaches, rivers, lakes, open fields, tracks, roads, streets, squares, parks, etc. are public areas in Spain

Article 9.2 in the Carta Magna places public authorities under the obligation to remove any hindrance in the way of individuals and groups to which they belong so that their freedom and equality may be effective.

As all beaches are public areas, all beaches are free to be used.

Another matter is **the degree of social acceptance** which this has, and the problems which we may find with the practice of nudism, derived from the oppression to which nudism is subjected by a society which is for the most part textile.

It is important for us to understand **that according to the current legislation, nudism cannot be limited, nor sanctioned and, even less so, forbidden.**

Of course this can change, since it would be sufficient for a law to be passed so that these measures could be applied, although this would be contrary to the fundamental rights set out in the Carta Magna and would also go against those recognised in the Universal Declaration of Human Rights.

We have to be conscious that nudism is a **philosophy** of life, an **ideology**, that we are a group, and that **we are a group which is strongly discriminated against**; we have to be aware that it is another of our rights and that it is completely adjusted to the legislation in force; it cannot be fined, and if it is, that fine can be appealed against; we have to be fully informed to denounce and to appeal against any sanction against nudity, and any legislative development which is carried out with the intention of reducing our rights.

We are a social group which, even being within a democracy, suffers great discrimination for not being able to express ourselves with freedom

Nudism is protected in the basic mainstay of democracy and legal state in Spain

- In the freedom of ideas,
- in non-discrimination for ideological reasons
- or of personal circumstances,
- in freedom of speech,
- in the freedom to wander around the whole Spanish territory without restrictions,
- in not reducing rights based on opinions,
- in the right to educate our children according to our morality (as long as this is adjusted to the law... and nudism is),
- in the right to one's own image and clothing or to the absence of such,
- and in the non consideration of illegal to that which is not regulated; that something may be considered illegal unless it is specifically regulated by law is characteristic of dictatorships, not of democratic states.

Until today nobody has given even one valid argument against nudism. They have appealed to aesthetics, to elegance... which are arguments that are annulled "per se". And fundamentally moral reasons are argued, morality being set out in the Constitution, and protected...

... Specifically, **the equality of moralities** is set out and that none should prevail over another except, of course, that one of them contravenes the law, and nudism does not.

We have freedom of expression, and we can express our nudism, our ideology and philosophy of life as long as we do not act against the law... as there is no law which goes against nudism, **we can express our nudity freely.**

If at any time you have any problems from practicing nudism in Spain do not hesitate in contacting us.



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If you have any modification which you consider pertinent, do not hesitate to inform us in order to obtain a more precise and informative document. The latest version can be found on our website.

Inform your naturist acquaintances about the contents of this leaflet by either printing the web version or photocopying this one.

Now nudism is legal in Spain without the need for authorisation, and this line of argument should be used in our favour, but if the police appear and infringe on your rights, this is what you should do:

The police can go and ask you to get dressed without that constituting any infraction. You can refuse without that constituting an infraction, either.

In the case of them asking you to get dressed **you can refuse but do not shout, threaten** or do anything similar.

In the safety of your home the police are off limits. If you are in a public area you are more vulnerable but still you are protected by your rights.

In this case, when you refuse they can insist, you can ask them to identify themselves and they have the obligation to do so, if they do not identify themselves you can report them just for that.

Then you can indicate to them that you will not get dressed and that according to the legislation in force, nudity is one of your rights. Ask them on the basis of which legislation they are indicating that you get dressed. If they do not tell you, insist.

In the case of them insisting you can indicate to them that you will not get dressed and that if they want to, they can detain you. You have to be prepared to go through that, but each person needs to evaluate the situation.

If they opt to detain you: you must allow them to do so **without resistance**, and once in the police station demand that you are charged and given a copy of the charge sheet. They have the obligation to do so, so you must insist. If they refuse you can report them for that reason. If they give you the charge sheet, this can be used to report the agents who have arrested you, for **illegal arrest**.

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This approach is very hard because you need to be prepared to go through the situation in the same way as women's libbers had to, to achieve their rights

Refusing to get dressed is not punishable as a disobedience misdemeanour

They can also indicate that there is some type of legislation which, if it is true that it exists, will likely be some type of municipal legislation. In this case they have the obligation to proceed, but that legislation is irregular and the sanction, in the case of there being one, or anything else which they do can be appealed against.

Legal empowerment of the municipalities to establish sanctions is necessary. To establish a sanction there must be a law which indicates this, and the Town Hall is never the body to establish a fine in the absence of an empowering law. In the case of nudism that law does not exist.

They can also threaten to report you for **public scandal**. That figure **no longer exists**. Ask them to indicate in which article of the penal code it is established. Indicate to them that such a misdemeanour does not exist and that you do not have to take notice of them.

They can threaten with an offence which does exist, which is that of "Exhibitionism and Sexual Provocation" (Art. 185 of the Penal Code) arguing that there are **minors** present. For that to be applicable several things would need to occur: - That you were before minors or mentally deficient persons. - And that there were **sexual intention**, either by provoking others or by sexually exciting oneself. But one of these situations alone is not enough, **both need to exist**. As there is no sexual intention, it cannot be applied.

In the event of a fine, get in contact with us or with the nearest naturist association.

Translation by Andrew Trevor Plumb & Alberto Gonzalez Iglesias