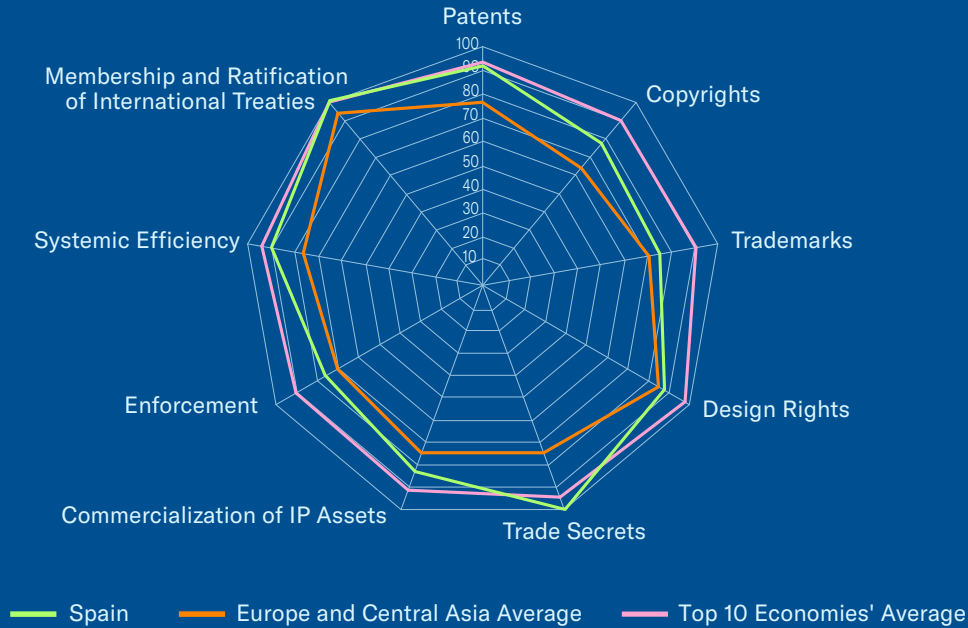
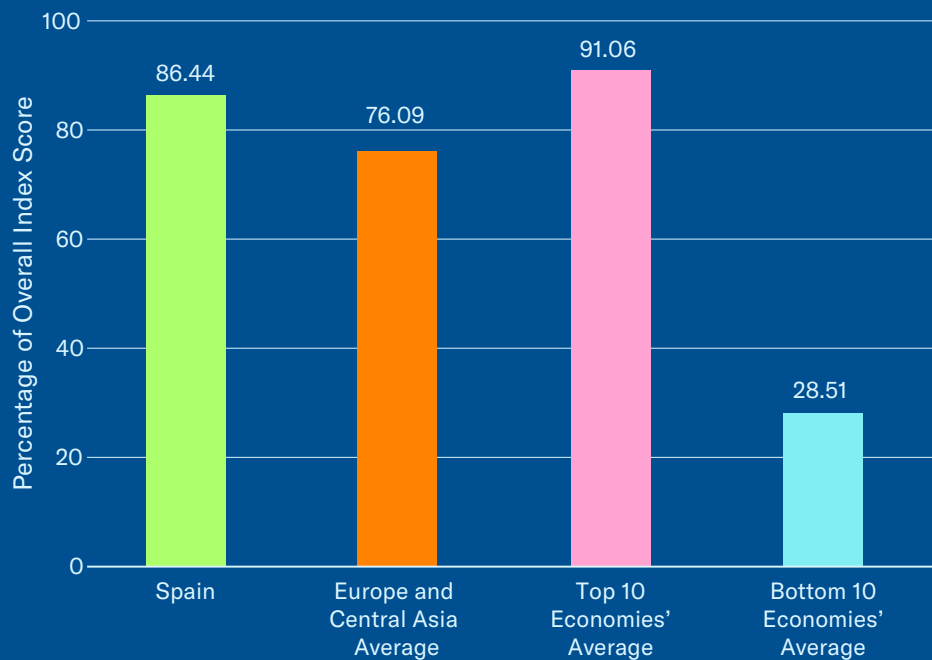
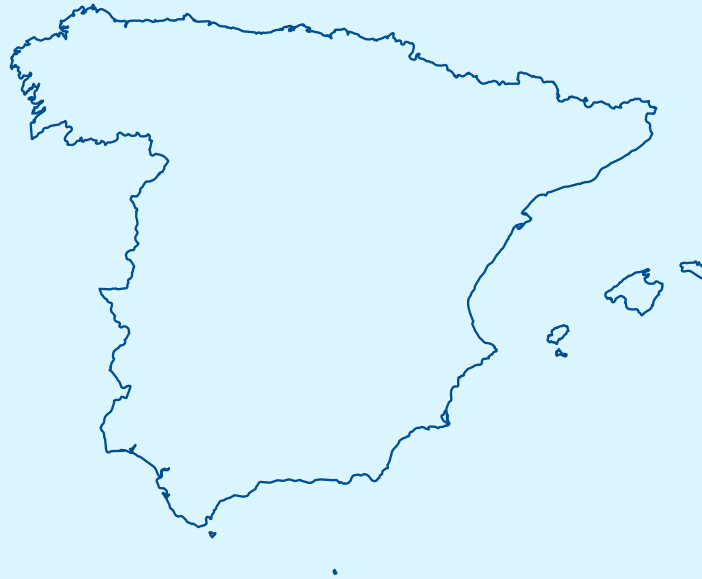


Category Scores



Overall Score in Comparison





Key Areas of Strength

- Royal Decree-Law 24/2021 transposes EU Directive 2019/790 on Copyright and Related Rights in the Digital Single Market (CDSM Directive)
- 2021 Protocol to Strengthen the Protection of Intellectual Property Rights further strengthens Spanish enforcement efforts
- 2019 trade secret law is operational—Business Secrets Act entered into force in March 2019
- Stronger copyright enforcement measures in place through Royal Decree Law 2/2018—continued enforcement efforts through Ministry of Culture
- Advanced IP system in place as an EU Member State
- Sector-specific rights are in place and enforced
- Efforts to strengthen and modernize patent and copyright frameworks, including with respect to online copyright enforcement
- Civil and criminal reforms enhance remedies available for IP infringement
- Active public awareness campaigns and engagement efforts

Key Areas of Weakness

- Regulation 2019/933 and existing SPC exemption for exports of biopharmaceuticals pose significant risk to Spain's and the EU's research and IP-based biopharma industry
- Counterfeiting and piracy levels remain high compared to other EU economies—software piracy estimated at 42%

Indicator	Score
Category 1: Patents, Related Rights and Limitations	8.25
1. Term of protection	1.00
2. Patentability requirements	1.00
3. Patentability of CIIIs	1.00
4. Plant variety protection	1.00
5. Pharmaceutical-related enforcement	0.50
6. Legislative criteria and use of compulsory licensing	1.00
7. Pharmaceutical patent term restoration	0.75
8. Membership of a Patent Prosecution Highway	1.00
9. Patent opposition	1.00
Category 2: Copyrights, Related Rights, and Limitations	5.38
10. Term of protection	0.63
11. Exclusive rights	0.75
12. Injunctive-type relief	1.00
13. Cooperative action against online piracy	1.00
14. Limitations and exceptions	0.75
15. TPM and DRM	0.75
16. Government use of licensed software	0.50
Category 3: Trademarks, Related Rights, and Limitations	3.00
17. Term of protection	1.00
18. Protection of well-known marks	0.75
19. Exclusive rights and trademarks	0.75
20. Frameworks against online sale of counterfeit goods	0.50
Category 4: Design Rights, Related Rights, and Limitations	1.75
21. Industrial design term of protection	1.00
22. Exclusive rights and industrial design rights	0.75
Category 5: Trade Secrets and the Protection of Confidential Information	3.00
23. Protection of trade secrets (civil remedies)	1.00
24. Protection of trade secrets (criminal sanctions)	1.00
25. Regulatory data protection term	1.00

Indicator	Score
Category 6: Commercialization of IP Assets	5.00
26. Barriers to market access	0.75
27. Barriers to technology transfer	0.75
28. Registration and disclosure requirements of licensing deals	0.75
29. Direct government intervention in setting licensing terms	1.00
30. IP as an economic asset	0.75
31. Tax incentives for the creation of IP assets	1.00
Category 7: Enforcement	5.34
32. Physical counterfeiting rates	0.76
33. Software piracy rates	0.58
34. Civil and precedural remedies	0.75
35. Preestablished damages	0.50
36. Criminal standards	0.75
37. Effective border measures	1.00
38. Transparency and public reporting by customs	1.00
Category 8: Systemic Efficiency	4.50
39. Coordination of IP rights enforcement	0.75
40. Consultation with stakeholders during IP policy formation	1.00
41. Educational campaigns and awareness raising	1.00
42. Targeted incentives for the creation and use of IP assets for SMEs	0.75
43. IP-intensive industries, national economic impact analysis	1.00
Category 9: Membership and Ratification of International Treaties	7.00
44. WIPO Internet Treaties	1.00
45. Singapore Treaty on the Law of Trademarks and Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks	1.00
46. Patent Law Treaty and Patent Cooperation Treaty	1.00
47. Membership of the International Convention for the Protection of New Varieties of Plants, ct of 1991	1.00
48. Membership of the Convention on Cybercrime, 2001	1.00
49. The Hague Agreement Concerning the International Registration of Industrial Designs	1.00
50. Post-TRIPS FTA	1.00

Total: 43.22



Spotlight on the National IP Environment

Past Editions versus Current Score

Spain's overall score has increased from 85.94% (42.97 out of 50) in the tenth edition to 86.44% (43.22 out of 50). This reflects a score increase on indicator 13.

Copyrights, Related Rights, and Limitations

13. Availability of frameworks that promote cooperative action against online piracy: As noted over the course of the Index, for many years, the protection of copyrighted material online has been a serious challenge for rightsholders in Spain. Historically, most digital content accessed has been infringing, with the consumption of unauthorized content particularly visible in the areas of TV, gaming, and sports. To address these challenges, the Spanish government has since the early 2010s embarked on a series of copyright reform efforts, including significant legislative changes and stronger enforcement at both the administrative and judicial levels. Key changes include amendments to the Intellectual Property Act and the Criminal Code in 2014-2015, introduction of the Sinde Act of 2012, and several royal decrees. The Sinde Act created a notification regime whereby the Spanish Intellectual Property Commission may receive notices from copyright owners and determine which should be sent on to relevant ISPs, who then should either disable access to the identified content within 72 hours of the notice or have the case brought before a court of law. The powers of the commission and of this administrative enforcement route have been strengthened over the past few years, and today, the commission has the power to close a webpage for up to one year without a judicial order.

Substantial fines have also been introduced in cases of noncompliance. At the same time, as the commission has expanded its administrative

remit and enforcement efforts, there have been stronger enforcement efforts through Spanish courts. Like in many other EU Member States, rightsholders in Spain are now able to effectively seek redress through the judiciary. Over the past few years, Spanish courts have issued several orders to ISPs in relation to sites linking to pirated content, including The Pirate Bay.

In 2021, a new “Protocol to Strengthen the Protection of Intellectual Property Rights” was signed by representatives of the content industry and representatives for the largest telecommunications service providers in Spain. The purpose of the protocol is to improve existing enforcement procedures and to specifically address the issue of mirror sites.

Finally, like many other EU Member States, Spain has for the past three years been in the process of transposing and implementing EU Directive 2019/790 on Copyright and Related Rights in the Digital Single Market (CDSM Directive). In late 2021, Royal Decree-Law 24/2021 was issued by the government and came into force. This omnibus decree transposed the CDSM Directive into Spanish law, including relevant amendments to underlying copyright legislation. The decree broadly follows the scope of the EU Directive, particularly with regard to responsibilities and requirements under Article 17. The decree maintains existing exceptions and limitations provided under Spanish and European copyright law and jurisprudence, and it also strengthens protections for creators online by providing clear definitions of what constitutes secondary liability for communication to the public of a protected work. The decree provides a clear definition and safe harbor mechanism for content-sharing platforms to avoid any direct liability. As a result of this transposition, the score on this indicator has increased by 0.25.