



**EUROPEAN COMMITTEE OF SOCIAL RIGHTS
COMITÉ EUROPÉEN DES DROITS SOCIAUX**

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Case Document No. 1

Unión General de Trabajadores (UGT) v. Spain
Complaint No. 250/2025

**COMPLAINT
(Translation in English)**

Registered at the Secretariat on 31 July 2025

**COLLECTIVE COMPLAINT
(COMPLAINT)**

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SUBJECT MATTER

Collective complaint lodged by the UGT (Spain) against the Spanish State for violation of Articles 1§2 (right of everyone to an occupation freely entered upon); 3 and 11 (right to the protection of people's safety and physical and mental health); and 26 (right to human dignity in the provision of services) of the Revised European Social Charter (RESC), 16 (protection of the family); 17 (legal and socio-economic protection of girls and young women); 19.1 (protection of migrants seeking employment); 20 (right to equal opportunities regardless of sex and gender); 27 (equal employment opportunities for persons with family responsibilities); 30 (protection against poverty); and 31 (the right to housing), both separately and in conjunction with Article E (non-discrimination on grounds of sex or gender), by failing to ensure effective protection with due diligence for women and girls who are victims of prostitution and/or at risk of trafficking for sexual exploitation, particularly with respect to the most vulnerable groups (e.g. young migrant women, youth at risk of social exclusion), contrary to the requirements of the RESC, in accordance with the case law of the European Committee of Social Rights (ECSR).

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1. Subject matter of the collective complaint

1. By means of this application, the Unión General de Trabajadoras y de Trabajadores (UGT), established since its (centenary) origins as a class-based trade union and institutionally recognised as the most representative organisation throughout the State, **collectively requests a conclusion that the legislation (regulatory framework) and its public policies on prostitution, trafficking in persons, usually women, and trafficking for sexual exploitation** (state of affairs in practice) **are not in conformity with the system of rights and guarantees set out in the Revised European Social Charter (RESC)**. More specifically, and for the reasons of fact and law to be developed below, it is considered that **this legislation and practice on prostitution and trafficking in Spain violate:**

- 1) **Article 1§2. and 1.4** (*right of everyone to an occupation freely entered upon*).
- 2) **Articles 3 and 11** (*right to the protection of people's safety and physical and mental health*).
- 3) **Article 26** (*right to human dignity in the provision of services*) of the Revised European Social Charter (**RESC**).
- 4) **Article 16** (protection of the family) and **Article 17** (the right of girls and young persons to social, legal and economic protection).
- 5) **Article 19.1** (protection of migrants seeking employment in the face of deceptive offers of employment concealing prostitution).
- 6) **Article 20** (*right to equal opportunities on the basis of sex and gender*)
- 7) **Article 27** (*equal employment opportunities for persons with family responsibilities*).
- 8) **Article 30** (*protection against poverty*).
- 9) **Article 31** (*the right to housing*).
- 10) **As well as Article E** (non-discrimination on grounds of sex or gender).

2. The Spanish State's situation of non-conformity – both in law and in fact – with these RESC rights is manifested in a **serious deficiency in the effective protection afforded to women and girls who are victims of prostitution and/or at risk of trafficking for sexual exploitation, particularly with regard to the most vulnerable groups** (e.g. young migrant women, young persons at risk of social exclusion), **contrary to the requirements of the aforementioned provisions of the RESC**, as interpreted by the case law of the European Committee of Social Rights (ECSR). As will be reasoned in the following legal and factual grounds, this collective complaint seeks to have the ECSR develop specific jurisprudence to ensure the Spanish State's compliance with its commitments under the RESC and other international legal instruments to effectively combat (1) prostitution and (2) trafficking for sexual exploitation as serious forms of violence and discrimination against women and girls, especially those in situations of particular vulnerability.

3. Likewise, it is requested that, in order to guarantee the legal and social effectiveness of compliance with these ECSR mandates, the ECSR **require the Spanish State to immediately design and implement truly effective social measures** to ensure the effective protection of women and girls who are victims of prostitution and at risk of trafficking for sexual exploitation. These measures should **promote their exit from such situations, which threaten their rights, by integrating them into safe and healthy social alternatives, and should effectively reduce the demand for the purchase of sex** – predominantly by men – the primary cause of these situations of violence, discrimination, and contempt for human dignity, particularly that of women.

2. Factual substantiation of the collective complaint: the brutal reality of women in prostitution and trafficking for sexual exploitation in Spain: figures and testimonies (account of women victims and representative associations)

2.1. Quantitative overview of Spain’s thriving prostitution industry as a source of commercial exploitation, objectification and (real) risk of trafficking in women, girls and young people)

4. One of the major challenges in identifying the true magnitude of the tragedy of both prostitution and trafficking in general, and trafficking for sexual exploitation in particular (forms of male violence against women rooted in the discrimination against women and the lack of protection for girls in a society dominated by a pattern of male domination), is the absence of reliable data, as the available figures are essentially estimates. This lack of reliable statistical information is due to the fact that these are socially invisible phenomena that remain in the shadows. However, in Spain, a large-scale study was recently conducted on street prostitution (excluding the growing phenomenon of prostitution via the internet) and its connection with trafficking for sexual exploitation (Ministry of Equality, Trafficking, Sexual Exploitation and Prostitution of Women: A Quantitative Approach, 2025 – data for the year 2023¹). Promoted officially, this study makes it possible to approach with reasonable certainty the very alarming figures of this tragedy affecting thousands of women and girls who are immersed in conduct contrary to internationally recognised human rights, as will be demonstrated in this claim or collective complaint.

5. For the purposes of this collective complaint, from the aforementioned [large-scale study](#) (which analysed, with the help of artificial intelligence, more than 200,000 different advertisements), we highlight the following:

¹ <https://violenciagenero.igualdad.gob.es/wp-content/uploads/Informe-macroestudio-trata-.pdf>

- **At least 114,576 different women** (0.56% of women aged 18 and over) were identified as engaging in in-person prostitution in Spain through online advertisements. Based on that figure (**94.5% women, 1.54% trans women and 1.83% men**), and through the application of a scientific method, the actual number of women engaged in in-person prostitution was estimated to range between **152,000 and 184,200**.
- The study finds that trafficking in women and girls for sexual exploitation is **not a marginal component of prostitution as a social and subcultural institution**, but rather **a structural part of the prostitution market**. In this sense, trafficking exists by virtue of, or as a direct consequence of, prostitution itself, which, in turn, is overwhelmingly driven by male demand. Thus:
 - **Approximately 24.23% of women in prostitution (around 28,000) are at moderate risk** (subject to two risk factors) **of sexual exploitation**.
 - Almost 10,000 of them – around **8.5%** – are at high risk (subject to three or more risk factors) of sexual exploitation;
 - **80% are exposed to a low-level risk** (subject to only a single risk factor) of sexual exploitation.

Trafficking in human beings constitutes a serious violation of human rights, in particular individual dignity and freedom.

Without prejudice to the more detailed analysis that will be carried out in the legal reasoning, it should be noted that trafficking in general, and trafficking for sexual exploitation in particular, is both a form of male violence against women and a serious criminal offence, which in most cases involves criminal organisations that derive significant profits from the exploitation of persons, mostly women, for various purposes. It is, in effect, a form of slavery that reduces the human being to a mere commodity.

- By age group, women aged **18 to 24 show the highest rate of involvement in prostitution** (189 women in prostitution per 10,000 women in this age group) and are therefore at significant risk of being trafficked for sexual exploitation. The next most affected group is that of women aged 25 to 36, after which the incidence drops sharply among those aged 37 to 45 (7%) and 46 to 55 (1.6%). However, the Study notes that in 31% of the advertisements, age is not indicated, which means the incidence among young women may in fact be higher.

These findings are consistent with international data (UNODC, 2020), which estimate that the vast majority of victims are young women and girls. This is supported by the European Commission (Strategy on Combating Trafficking in Human Beings): 92% of victims of trafficking for sexual exploitation between 2017 and 2018 were women. For this reason, the United Nations included this form of violence among those to be eliminated under Sustainable Development Goal No. 5 of the 2030 Agenda for Sustainable Development.

- As regards origin or nationality, the study found that **51% of the women are from Latin America, and 16%** are non-Spanish Europeans (including Russians, Romanians, etc.). The study warns of both a high percentage of cases in which nationality is unknown (36.6%) and the under-representation of African and Asian women – barely 1% within this percentage, a figure which may in reality be higher. It also notes that many women listed as Spanish nationals (13%) are, in fact, of foreign origin. In addition, the study warns that Spanish women involved in prostitution advertise on the internet to a greater extent than foreign women.

In short, the most recent scientific data – which actually under-represent the predominance of foreign immigrant women – leave no doubt as to the higher prevalence of prostitution and, consequently, the higher risk of trafficking for sexual exploitation among immigrant women, often in an irregular situation in Spain. Therefore, in addition to their status as women (67% of victims of trafficking for sexual purposes) and their age (25% are girls), there are other factors of particular vulnerability, such as nationality (over 60% are foreign), irregular administrative status and poverty – all of which make them more susceptible to marginalisation and sexual exploitation, whether or not these situations constitute actual offences (trafficking or trafficking for sexual and/or labour exploitation).

- The study helps to understand the scale of the organisations that abuse and traffic women, noting that up to 363 different women are advertised through the same telephone number, which clearly shows **that the phenomenon is organised by third parties. There is, in reality, no prevalence of “sexual self-exploitation”**, but rather exploitation by third parties (mostly men) of women’s bodies, reduced to sexual objects. Prostitution and trafficking, through acts of cruel physical and/or psychological violence, constitute forms of violation of women’s right to effective equality.

6. Today, it is also necessary to add the spectacular growth of prostitution over the internet, which mainly concerns young women who are recruited through various platforms operating as *“online procuring platforms”*, [“laundering the sex business”](#), [according to recent reports from the Ministry of Equality, 2024](#). It is estimated that this segment represents around €5 billion, with platform commissions accounting for approximately 20% of revenues. Spain ranks fifth worldwide in terms of the number of *“sexual content creators.”*

7. We can thus confirm that the number of women engaged in prostitution has been increasing in Spain. A decade ago, the Ministry of the Interior’s Intelligence Centre against Organised Crime (CITCO) estimated the number of women in this situation to be at approximately 45,000 (Report on the situation of trafficking in human beings for sexual exploitation).

This figure was included in the document [Comprehensive Plan to Combat Trafficking in Women and Girls for Sexual Exploitation \(2015 – 2018\)](#) [*Plan Integral de Lucha contra la Trata de Mujeres y Niñas con fines de Explotación Sexual (2015-2018)*], published by the Ministry of Health. Other [studies](#) from that period suggested that this figure referred solely to women who were victims of trafficking (or at significant risk thereof), and that the number closer to reality was between 100,000 and 120,000 women. In any case, the scientific evidence clearly demonstrates a dual reality, which is central to the collective complaint we are presenting: on the one hand, prostitution has clearly increased in Spain, a country that maintains a vague regulatory model for prostitution; on the other hand, a structural portion of that prostitution constitutes trafficking for sexual exploitation, meaning that free and informed consent is entirely absent.

8. As regards the manner in which these services are provided, in 2005 a [study commissioned by the Ministry of Labour](#) on the potential “impact that professional normalisation of prostitution could have on the sustainability of the pension system” estimated that approximately 113,100 women could register with the Social Security system if prostitution were legalised. The author of the study estimated at that time that most of these women worked in clubs (42,500) and apartments (41,000), while 24,000 worked in roadside clubs (formally structured, to comply with legal requirement, as ‘*clubes de alterne*’, i.e. sex clubs or hostess bars), and 5,600 worked on the streets. This information is not irrelevant for the purposes of the collective complaint and the impact of this situation on the protection of RESC rights, as will be explained in due course. This is because it reveals a form of exploitation of women’s sexual services by men that is currently legalised, despite attempts to criminalise it: “*tercerías locativas*”, or ‘third-party renting schemes’, which, as will be seen, are the subject intense debate within the community due to their impact on the right to housing under Article 31 RESC.

9. According to the Fondation Scelles First Global Report on Sexual Exploitation, **between 40 and 42 million people** are engaged in prostitution worldwide, 80% of whom are women or girls, and the majority (75%) aged between 13 and 25. **Nine out of ten prostitutes are dependent on a procurer, or ‘pimp’**. The United Nations Office on Drugs and Crime (UNODC) documented up to **225,000 victims of human trafficking between 2003 and 2016 (75% women and girls)**, most of them trafficked for sexual exploitation. In 2016, the number of victims of trafficking reached 24,000 – a figure comparable to the total number of women currently at moderate risk of trafficking in Spain, as previously noted. We thus observe a significant increase since **2003**, a year in which data was only available for 39 countries. **Prostitution, sexual exploitation and profit arising under the objectification of women are therefore closely interconnected in practice, as evidenced by the scientific and social [data](#)**, regardless of the ongoing and intense political, ideological and social debate surrounding this issue, as will be discussed later.

10. **In global economic terms, data place the sexual exploitation industry (a more accurate term than “sex work”) as the third most profitable business in the world, after**

arms trafficking and drug trafficking (both criminal activities). Once again, the lack of reliable data is a major obstacle to the adoption of appropriate regulations and public policies.

In the case of Spain, a 2007 report prepared by the Joint Committee on Women's Rights and Equal Opportunities of the Congress of Deputies of the Government of Spain estimated that the prostitution industry in Spain generated **approximately 18 billion euros annually**. Since 2014, the National Statistics Institute (INE) has included in GDP calculations an estimate of the contribution of illegal activities to the Spanish economy, as required by the EU.

11. Overall, illegal activities are estimated to account for at least 0.87% of GDP (it being clear that the very nature of illegality makes precise estimation difficult). **Prostitution is estimated to account for at least 0.35%**, while for drug trafficking it is 0.50%. If Spain's GDP at current prices in 2025 is estimated at around €1.7 trillion, 0.35% of that amount would **be approximately €6 billion**. Although estimates vary considerably, **the economic impact of prostitution in Spain is that of a large-scale, multi-billion-euro business**, generating over €16 million per day. However, the lack of legal regulation, as will be discussed, and the absence of adequate public policies make it even more **difficult to determine the full extent of prostitution as an (ominous) industry of sexual exploitation of women**. It is important, for the purposes of this collective complaint, to recognise that these economic profits are obtained **at the expense of the exploitation and abuse of the vast majority of women in prostitution**. **As previously noted, online platforms further amplify the economic impact** of this industry, which exploits women's bodies, reducing them to mere sexual objects, in violation of their human dignity.

12. **However, if so much is spent** on prostitution services – with, it follows, such profitable returns – **it is because there is a high demand** from (male) consumers, as different research published since 2006 shows. Once again, the figures vary depending on the study; however, in any case, it is clearly established that **Spain is one of the countries with the highest levels of demand for prostitution in Europe, and even in the world**. In 2006, it was estimated that the percentage of Spanish men who had sought sexual services was **11 percent**. A percentage **much higher than what was recorded in other European countries**, such as Portugal (2.4-5.4 percent), Greece (5.3 percent), Germany (4.8 percent), Switzerland (3.4-3.7 percent), the Netherlands (2.8 percent), Italy (1.7-2 percent), the United Kingdom (1-2 percent), Norway (1.8 percent), or France (0.7-1.1 percent).

13. **Around one third (32.1%) of men in Spain admit to having paid for sex** (according to the Centre for Sociological Research [*Centro de Investigaciones Sociológicas* – CIS] survey, 2008). In terms of frequency, 10.2% said that they had only

paid for sex once in their lives, while another 21.9% acknowledged having done so more than once.

14. Taking into account the socio-demographic variables of this alarming overview of prostitution in Spain – which should not be confused with, despite being closely related to, trafficking for sexual exploitation – the results highlight the sex and gender dimension of the problem. Among women, demand for prostitution is negligible (0.2%).

By age group, **men aged 65 and over** are those who have most often paid for sexual relations in their lives (up to four out of ten). However, demand among the youth population is reportedly on the rise. The most recent nationwide survey available was conducted by INJUVE for the [Youth in Spain Report, 2020](#). According to its data, 10.6% of young people aged 15 to 29 admitted having used prostitution services (4.8% more than once in their lifetime). Among young men aged 25 to 29, 3.9% said they had done so more than once.

15. Once again, the data vary. Another report, *La prostitución en la Comunidad Valenciana (una perspectiva sociológica)* [‘Prostitution in the Valencian Community (a sociological perspective)’], produced by a professor of sociology at the University of Valencia and commissioned by the Valencian Forum for the Abolition of Prostitution, **concludes that the figure of between 4% and 6% of current clients** (those who paid for sex in the last year) is the most likely figure, both for the autonomous community and for Spain as a whole. In any case, **it is clear that Spain has maintained a high rate of demand for prostitution services for years, ranking it as one of the countries with the highest levels in Europe and the world: it ranks as the country with the third highest rates in the world, surpassed only by Thailand (73%) and Puerto Rico (61%). In the European ranking, the highest rates are found in: Switzerland (19% have paid for sex), Austria (15%) and the Netherlands (14%), the latter two being countries that have followed the approach of legalising prostitution.**

16. It is clear that one of the explanatory factors behind this alarming situation of the proliferation of the sex industry, in the form of *clubes de alterne*, i.e. sex clubs or hostess bars, lies in the fact that coercive procuring, or pimping involving coercion, was not criminalised in Spain until 2003. This inaction made the investment in and expansion of these establishments possible. **As a result, there arose a need for a contingent of women to sustain the operation of these brothels.** Since then, the predominant profile of women in prostitution has been that of individuals facing particular vulnerability due to their socioeconomic and personal circumstances: immigrant women, poor women and women with family responsibilities. In any case, the involvement of international mafias is well [established](#). After 2003, Spain introduced stricter criminal laws against procuring, but the situation of ‘non-legality’ prevailing within the country, as will be discussed later, contributes to the fact that this illegal business has not been reduced, on the contrary.

17. Another explanatory factor behind this particularly high incidence of prostitution in Spain is also institutional. As will be argued, it lies in the shortcomings of the legal framework governing foreign immigration, which leads to conditions of particular vulnerability for women from non-EU countries. The lack of channels to facilitate access to legal documentation easily turns them into victims of prostitution, as their particular vulnerability drives them to resort to prostitution in order to survive – without it being a truly voluntary choice.

2.2. A more qualitative approach to the reality of prostitution in Spain based on data and testimonies (from women and girls): the prevalence of degrading and abusive conditions in prostitution

18. In the preceding sections, it has been shown – according to scientific evidence, recently confirmed by the aforementioned large-scale Spanish study – that the conceptual and legal distinction between “prostitution” (*the purchase, for a price, of sexual services, legal or illegal depending on each state’s legislation*) and “trafficking for sexual exploitation” (*a form of criminal violence against women, criminalised internationally because it involves deception, violence, coercion or threats*) cannot lead to ignoring or underestimating the structural relationship that exists, in practice, between the two situations. **Scientific evidence indicates that a practice of prostitution is subject to a high and certain risk of trafficking when three or more risk factors are present** in a potential victim (for example: novelty – advertisements describing women as “new” or “recently arrived”; availability – “24 hours” or “7 days a week”; personality traits – terms such as “innocent,” “docile,” “compliant,” “submissive,” “manageable”; type of services offered – for instance, “bareback,” meaning without protection, or sadomasochistic services) (Organisation for Security and Co-operation in Europe – OSCE).

19. Summarising the data presented above, if this rigorous criterion is applied, between approximately 8.5% and 15% involved in prostitution are estimated to face an elevated, real risk of trafficking (more than 10,000 women). However, if only one of the risk factors is taken into account, the percentage of women in prostitution who are at risk of **becoming victims of trafficking for sexual exploitation rises to 80%**. According to the government’s own interpretation of this study, the presence of a single risk factor can in no way rule out the existence of coercion affecting the prostitute’s will.

20. However, beyond the significant percentage of women in prostitution in Spain who are currently victims of, or at clear risk of, trafficking for sexual exploitation, the signatories of this claim or collective complaint consider it particularly important, for the finding of non-conformity sought from the ECSR – to highlight the fact that **the socioeconomic and subcultural institution of prostitution operates under highly degrading and abusive material conditions for its existence and persistence.** These degrading conditions within the sexual exploitation industry include:

- those linked to **job insecurity** and the feminisation of survival;
- the **lack of economic resources** and the urgency to obtain them (poverty);
- typical behaviour **of physical and/or psychological violence** by clients and procurers.
- in the specific case of migrant women, as previously noted, legislation on foreign nationals and an irregular administrative status increase their vulnerability and, consequently, their risk of becoming involved in prostitution. In the absence of other sources of income and without legal documentation, many migrant women **are forced to make prostitution their main source of income – for their own survival** and, in many cases, that of their dependants.

21. Reality therefore shows that not only trafficking for sexual (and/or labour) exploitation, but also prostitution itself, constitutes a form of violation of women’s right to effective equality through acts of exploitation, abuse and often cruel physical and/or psychological violence.

Thus, the purchase of sexual services – although often rationalised as the pursuit of higher-quality sex, entertainment, hedonistic enjoyment, sexual freedom, and so on – represents in fact yet another manifestation of human rights violations and gender-based violence, as confirmed by international law, which will be discussed in due course. Reality thus confirms the majority position in the scientific evidence (*La prostitución femenina en España. Construyendo un perfil del cliente*. [‘Female prostitution in Spain. Building a customer profile’], 2018²).

22. For example, in a study based on interviews, sociologists Carmen Meneses Falcón and Antonio Rúa Vieites analyse the **degrading situations** that prostitutes experience in Spain. Among the 138 men who participated in the study as clients of prostitution, 45% admitted to paying for unprotected sexual relations (thereby putting the prostitute’s health at risk), and in 34.1% of sexual encounters, cocaine was consumed (adding a new health risk factor) (cited in Daniel Choya Moreno, *La prostitución inicia su camino hacia la abolición* [‘Prostitution Begins its Path Towards Abolition’], 2023).³

23. **These statistical data and scientific findings become even more alarming when one considers qualitative research, revealing that Spain’s regulations and public policies still have significant room for improvement and require an urgent overhaul.** Reports and media coverage in Spain expose the harsh, brutal reality, especially where minors are concerned. **Among the many available sources, the following seem particularly decisive:**

²<https://www.labienal.com/servicios/mujer-igualdad/campanas-de-sensibilizacion/23-septiembre/archivos-campana-23-septiembre-2018/aguada-gomez.pdf>

³<https://elgeneracionalpost.com/politica/2023/1025/111636/la-prostitucion-inicia-su-camino-hacia-la-abolicion.html>

- **1,100 minors under the guardianship of regional governments report sexual abuse since 2019.** Vulnerable and lacking support networks, these children are targeted by offenders and mafias for sexual exploitation. Official figures on this tragedy are believed to represent only the [tip of the iceberg](#).
- *“You fuck me, and I get you things.”*

The sentence, which appears in a ruling of the High Court of Justice of Madrid, encapsulates in eight words the hell endured by a girl under state guardianship. At the age of twelve, she had been living in a flat subject to guardianship, under a resettlement day release scheme. The things they promised her in exchange for sex included drugs, money, or mobile phones. She was abused by several men; a relative used her to get money and drugs, and introduced her to cocaine. This is not isolated data – it confirms the structural failure to protect minors and young people within the Spanish system. Children under state guardianship ([more than 30,000](#)) are the most vulnerable and exposed to the highest levels of risk, while Spain still lacks the necessary regulations and public policies to ensure their effective protection, as sought in this complaint.

- Another alarming case illustrating this widespread problem was that of the girls involved in Operation Sana. In 2022, this investigation [uncovered a network engaged in the sexual exploitation of teenage girls whom their exploiters had addicted to drugs in order to control them more easily](#). As can be seen, although the case was exposed three years ago, the lack of protection remains essentially the same, despite the government’s awareness of the need to take action to address it. [Expert reports](#) show that the problem exists in all the Autonomous Communities, because the system is overwhelmed by the increase in foreign children and an outdated model.
- The most recent controversy surrounding child protection centres in Catalonia reinforces the conviction that there is a lack of monitoring. The *Sindicatura de Cuentas* (the regional audit office) found serious irregularities in these services, yet no institutional measures have been taken. Once again, expert reports warn that this constitutes poor management that increases the vulnerability of minors and exposes them to a [more certain risk of falling into the networks of sexual exploitation, which are always on the lookout and never rest, profiting from this vulnerability, given the arbitrariness of public administration](#).

In light of this, [the damning report published last year by the Sindicatura de Cuentas de Catalunya](#) on the poor management of the Directorate-General for Childhood and Adolescence of the Generalitat, covering the years 2016 to 2020, **will have no consequences**. The problem is even greater since, within the so-called “Mediterranean prostitution corridor”, Barcelona – particularly the districts of La Nova Esquerra de l’Eixample and Sant Antoni, where a large number of apartments and establishments where prostitution takes place are concentrated – is one of the [main “hotspots” of](#)

[prostitution in Spain](#). An analysis of advertisements by census section demonstrates the existence of a “Mediterranean prostitution corridor” in which there is virtually no postal code without at least one establishment, flat or club offering sexual services, aside from the main concentration in Madrid. Of course, the so-called “Madrid prostitution hub” remains one of the most frequented areas, and, as mentioned earlier, the management problems within child protection services there have also revealed serious structural failures.

24. In sum, the recurring incidents and cases are exposing [scandals involving girls who are prostituted](#) and subjected to sexual exploitation – sometimes drawn into it by peers – not as isolated or occasional events, but as part of a larger issue: [a structural problem within the child protection system](#), a largely unknown yet essential public service where very difficult though highly important work is carried out. Of course, the Spanish government is aware of the problem.

The Ministry of Children and Youth, in consultation with other bodies, the autonomous communities and professionals in the sector, is preparing a royal decree to improve conditions in child protection centres. However, once again, everything is left to the future, with no guarantees either of adoption or of the effectiveness of the proposed measures. We will set out many more examples of shortcomings in the course of this collective complaint.

25. The preventive and operational shortcomings of institutional action are also evident in the intervention of the police services themselves, that is, within the criminal-law and policing logic, as there is a profound paradox: **although police raids against prostitution networks based on the abuse and sexual exploitation of women have multiplied, their capacity for action remains very limited**, reaching only a tiny fraction of the women and girls currently or potentially affected by these situations. For example:

- **Police dismantled one of the largest prostitution rings, which had been exploiting some 500 women in Malaga.** Lured with promises of work in beauty salons, the Latin American women were forced into prostitution, without protection, to pay off travel debts, working 24 hours a day, seven days a week (24/7/365 “sex slave labour” system). [News item from 4 July 2024](#).
- **34 women rescued and 19 men arrested in major operation against sexual exploitation in Spain (news item from 4 June 2025), carried out through different social networks, with victims labelled as offering “luxury” services.**

The ECSR can see how these and other similar news reports from the real world confirm the more systematised information presented in the study referred to above. The vast majority are young immigrant women who are deceived with false promises of decent work in Spain, with their so-called “consent” merely being apparent. In all cases, they

are forced to provide sexual services in conditions that are hazardous to their health (without protection, very long working hours, etc.).

26. Indeed, while these raids are, of course, positive, they are insufficient. In 2023, **196 police operations in Spain resulted in the dismantling of 80 criminal groups and organisations and the arrest of 575 individuals**, the majority of them Spanish nationals: 178 women and 167 men involved in trafficking networks for sexual exploitation, and 126 women and 107 men operating in the sphere of sexual exploitation (Report on Trafficking and Exploitation of Human Beings in Spain, 2019 – 2023, published in 2024). This reflects [the structural dimension](#). The victims of this violence:

- the 294 persons rescued from the networks of [trafficking for sexual exploitation](#): 284 women, seven men and three girls. Most were between 28 and 32 years old and came from Colombia, Venezuela and Paraguay.
- In the case of victims rescued from situations of sexual exploitation not involving human trafficking networks, the number rises to 370 (353 women, eight men and nine girls), the majority being women aged 23 to 27, originally from Colombia, Spain and Venezuela, who were subjected to severe conditions of restriction or violation of their rights. It could not be proven that they had reached this situation as a result of the intervention of an organised human trafficking network.

That is, dozens of criminal operations end up identifying more male perpetrators (perpetrators of trafficking and sexual exploitation) than female victims who are rescued (around 600). The reality is brutal: it is known that thousands of women and girls are recruited and/or subjected to sexual exploitation, yet the institutional capacity for police intervention is [very limited](#).

27. Indeed, as shown by the Government-commissioned study, as previously noted, **more than 10,000 women are at serious risk of trafficking for sexual exploitation (one of the main drivers of the buoyant prostitution market), and around 28,000 are at moderate risk**. According to official data, **Spain's State Security Forces managed to rescue 1,794 victims of trafficking and exploitation in 2024, an increase of 22% compared to 2023**. Therefore, the official figures demonstrate that the interaction between prostitution and trafficking for sexual exploitation is highly significant; yet, at the same time, they make it clear that **policing policy alone is incapable of addressing this extremely serious structural problem. There is an urgent need for comprehensive protection policies**, encompassing all categories of rights and services for victims, as well as dissuasive measures to discourage demand, as required by the RESC – including healthcare protection, housing assistance, vocational guidance and alternative employment programmes. For two years, this brutal reality has been in and out of government drawers, in the form of a bill on trafficking, particularly trafficking for sexual exploitation, which, as we shall see, has yet to make any real progress. This is a further

reflection of the failure to provide protection and, therefore, of non-conformity with the requirements of the RESC.

28. The problem is not only Spanish, but European, and in all cases it is clear that prostitution feeds on environments and situations of vulnerability and poverty. Let us take another example from experience. A hidden side of last year’s European Football Championship was the increase in prostitution and “sex tourism”. The [problem](#), once again, is not only Spanish, but European, as evidenced by the fact that up to 100,000 prostitutes ([Erobella report on erotic services](#)) went to Germany (a country that legalises prostitution) for this purpose. The majority came from Bulgaria, Romania, Slovakia, Czech Republic and Poland. In other words, from countries where they have fewer opportunities to engage in other activities. **This only confirms the existence of international sexual exploitation networks that take advantage of poverty (most often affecting women).** In short, prostitution functions as a development strategy for countries with high poverty rates, not only for women and girls in conditions of particular vulnerability.

29. In this overview, through a small but carefully selected and illustrative sample of the brutal reality of prostitution and its breeding ground for the risk of trafficking – especially for sexual exploitation (but also labour exploitation) – the testimonies of a growing number of victims of prostitution are also included. These women advocate for the protection of women and girls and for criminalising the demand for the purchase of sex.

For example, the well-known activist – a Romanian immigrant prostituted at the age of 17 – Amelia Tiganus⁴ (*La Revuelta de las Putas. De víctima a activista* [‘The Revolt of the Whores. From victim to activist.’]) explains it very well. She describes the degrading reality of prostitution in Spain, not just the trafficking associated with it.

30. In her books, she blends her lived experience of five years in prostitution with wide-ranging critical reflection on this “normalised” social reality, which is nonetheless a source of immense violence and suffering, unequally distributed by gender (it affects millions of women and girls worldwide, thousands of them in Spain). The snapshot of prostitution in Spain reveals data as dark as they are hellish, owing to their drama and pain, reaffirming what was stated above with concrete data:

- The majority of women and girls are drawn into prostitution through illegal and inhuman recruitment strategies.
- In other cases, pimps deploy specific strategies to control women’s will without physical violence, and to “bind” them for their entire ‘sexually useful life’ (short and ending with physical and psychological deterioration) to

⁴ Amelia Tiganus is one of the most prominent people in Spain’s abolitionist movement against prostitution. In 2019, she received recognition for her commitment to achieving a society free of violence against women, awarded by the Ministry of Equality and the Government of Spain.

prostitution. This is done by making them dependent on drugs and/or alcohol, among other means of nullifying their true free will, to the point of making them believe that they are in this situation “of their own free will”.

- Overexploitation of women engaged in prostitution, characteristic of the mafia networks that sustain the criminal economy of prostitution, and the predominance of a ‘business – slavery’ logic as the business model of brothels.

31. The 2020 Guide produced by the NGO Médicos del Mundo (*La prostitución como forma de violencia de género. La percepción de las mujeres en situación de prostitución* [‘Prostitution as a Form of Gender-Based Violence. The Perception of Women in Prostitution’])⁵ paints the same picture of a degrading reality. It brings the voices of women in prostitution into the public debate on how to address prostitution. This [study](#) helps to make visible and denounce the gender-based violence and the rights violations that occur in the sphere of prostitution, based on women’s own experience and perception. It also identifies effective strategies for action, consistent both with the needs and expectations of the women directly affected and with the rights recognised for them in international instruments, such as the RESC.

32. Hence, as this collective complaint requests of the ECSR, it is necessary to adopt an approach to the phenomenon of prostitution that is not merely descriptive, nor even one limited to ethical criticism, but one which is prescriptive and social in nature – that is, with a **special normative focus framed in terms of human rights protection and gender perspective. This is how it is addressed in International Humanitarian Law, though not in Spain**, as we shall demonstrate. Moreover, as will also be argued, most public policies fail to take into account the particular socio-economic vulnerability of women in prostitution and their specific circumstances and needs (Kaplún Asensio, Martina. *El impacto de las políticas públicas sobre salud, vivienda y seguridad en los derechos de las mujeres que ejercen prostitución*. [‘The impact of public policies on health, housing and safety on the rights of women in prostitution’], *Methaodos revista de ciencias sociales*, 2022, 10 (1): 27-41, <https://doi.org/10.17502/mrcs.v10i1.523>).

3. Spain’s legal framework on prostitution and trafficking, especially for sexual exploitation: a ‘non-legal’ situation in constant need of remedy

3.1. The uniqueness of the Spanish regulatory framework on prostitution: it is neither illegal nor strictly legal, but rather persists in a realm of non-legality

⁵https://www.medicosdelmundo.org/app/uploads/old/sites/default/files/la_prostitucion_como_forma_de_violencia_de_genero.pdf

32. National models of the legal regulation of prostitution are usually distinguished between those that advocate its illegality (abolitionism) and those that, on the contrary, recognise its legality (‘regulationism’, i.e. referring to licenced prostitution). The reality, however, is considerably more complex, due to the significant diversity within the systems and specific experiences in each case (prohibition, abolition, legalisation). In Spain, precisely, prostitution is a **‘non-legal’ activity**, which has undoubtedly contributed both to its considerable expansion in recent years and to the ambiguities of the Spanish authorities (at all levels: state, regional, and local) when it comes to addressing it. Today, prostitution in Spain is not governed by any specific legal provisions, which leads to the absence of any recognition of rights for those who engage in it and the absence of criminal classification of its practice. There are activities related to pimping that are illegal (not all), although prostitution itself is not unlawful.

33. **Therefore, under Spanish criminal law**, the facilitation of adult prostitution – despite attempts at reform in the opposite direction – **continues to fall outside the scope of criminal liability**. It carries no penalty if:

- is not imposed through means that restrict freedom (*using violence, intimidation or deception, or abusing a situation of superiority, need or vulnerability of the victim*, according to Article 187.1, para. 1 of the Criminal Code).

Spanish criminal law thus recognised the difference between “voluntary” and “forced” prostitution, punishing those who curtail the freedom of the women who engage in prostitution, but logically never those who engage in it themselves.

- or if it *does not involve obtaining profit through exploitation* (a situation introduced by *Organic Law 11/2003 of 29 September, on specific measures relating to public safety, domestic violence and the social integration of foreigners*). Prohibition of prostitution for purposes of exploitation (labour or sexual).

In this case, the criminal prohibition (a liberal guarantee of a civil right) would apply to any form of prostitution carried out for labour or sexual exploitation. A conduct that will be deemed to occur “*when any of the following circumstances are present: a) The victim is in a situation of personal or economic vulnerability; b) Burdensome, disproportionate or abusive conditions are imposed on the victim for the exercise of such activity.*” (paragraph 2 of the same provision, introduced by Organic Law 1/2015 of 30 March).

34. It is different when dealing with minors (often girls), for whom establishing the basic criminal offence does not require proving a situation of abuse, violence or exploitation. In these cases, the criminal provision punishes anyone who “*induces, promotes, favours or facilitates the prostitution of a minor or a person with a disability*”

in need of special protection, or profits from it, or exploits them” (Article 188 of the Criminal Code).

35. Likewise, although it does so only partially and insufficiently, as highlighted above, there is specific regulation concerning the trafficking and exploitation of women. **The crime of trafficking is defined in Article 177 bis of the Criminal Code**, including forms of trafficking for labour or sexual exploitation. This criminalisation was strengthened by Organic Law 10/2022 of 6 September on the Comprehensive Guarantee of Sexual Freedom (LOGILS), **which recognises trafficking for sexual exploitation as a form of sexual violence**. It also establishes:

- The prohibition of advertisements for prostitution that publicly disseminate such activities and attract clients through such means – long an important source of income for print media (Article 11 of Organic Law 10/2022 of 6 September on the Comprehensive Guarantee of Sexual Freedom – LOGILS);
- A commitment – subsequently unfulfilled in most cases – to implement a comprehensive care pathway for victims of trafficking, including measures aimed at investigating the demand for sexual exploitation;
- Finally, although initially expressly included in the government draft bill, as it was considered a form of procuring or sexual exploitation of third parties, the so-called “*tercerías locativas*” – third party renting schemes – **were ultimately left out of the legal prohibition** (which would have criminalised the provision of premises for the exercise of prostitution).

3.2. **Absence of a specific law on prostitution: legislative fragmentation, lack of a clearly defined regulatory model and inadequacies of the Aliens Act**

36. For its part, immigration legislation provides a pathway for the regularisation of migrant victims of trafficking who are in an irregular situation (the majority), as well as irregular migrants who co-operate with the justice system in the prosecution of this type of crime, with special attention to minors (best interests of the child). Specifically, Article 59(1) of Organic Law 4/2000 of 11 January (the Immigration Act) provides (in line with Article 14 of the Europe Convention on Action Against Trafficking in Human Beings):

‘1. A foreign national who is in Spain irregularly and who is a victim, injured party, or witness to an act of illicit trafficking in human beings, illegal immigration, labour exploitation, illicit trafficking of labour, or exploitation in prostitution carried out by abusing his or her situation of need, may be exempt from administrative liability and shall not be expelled if he or she reports the perpetrators or accomplices of such trafficking, or if he or she co-operates and collaborates with the competent authorities by providing essential information or testifying... in the corresponding proceedings against those perpetrators.’

Paragraph 3 of the aforementioned Article 59 provides that a person who cooperates in such police proceedings may choose either a temporary residence and work permit or assisted return to their country of origin. Thus:

‘3. Foreign nationals who have been exempted from administrative liability may be granted, at their choice, assisted return to their country of origin or a residence and work permit on the basis of exceptional circumstances, as well as support for their social integration, in accordance with the provisions of this Act, ensuring, where appropriate, their safety and protection.’

The regulatory development is set out in Article 129 of Royal Decree 1155/2024 of 19 November, which approves the Regulation of Organic Law 4/2000 of 11 January on the rights and freedoms of foreign nationals in Spain and their social integration. A temporary **residence and work permit based on exceptional circumstances for co-operation against organised networks is also provided for in Articles 142 et seq. of Royal Decree 1155/2024.**

For victims of trafficking, an analogous and specifically strengthened regulation is provided in Article 59 bis of the Aliens Act. Its regulatory development is found in Articles 148 et seq. of Royal Decree 1155/2024.

Finally, it should be noted that the **Organic Law on the Comprehensive Guarantee of Sexual Freedom (LOGILS)** established pathways for temporary residence and work permits for victims of gender-based violence, as well as **temporary residence and work permits on exceptional grounds for foreign victims of sexual violence** (Articles 137 et seq. of Royal Decree 1155/2024).

37. Although their authority is highly questionable, in recent years restrictive municipal ordinances on prostitution in public streets have proliferated. While several of these ordinances adopt an abolitionist stance, criminalising clients (“*puteros*”, or “*johns*”) and treating prostitutes as victims, the reality is that such ordinances do not exist in all cities, nor do they have the same scope where they do exist. There are numerous cases in which fines are imposed on prostitutes themselves, despite the fact that prostitution is not criminalised under national law, while other major cities refuse to adopt an “[abolitionist](#)” approach. Therefore, the result is territorially very uneven, partial and consequently ineffective in providing comprehensive protection against these forms of sex-based violence and violations of the human rights of women and girls.

38. Spanish law, therefore, criminalises not only the “trafficking” of women in general – and, in particular, trafficking for sexual exploitation – but also forced prostitution (carried out through coercion) and prostitution for exploitation (by imposing abusive conditions, or when it involves persons in a situation of personal

and/or economic vulnerability). And, of course, the prostitution of minors. However, as shown by the factual data presented in the previous section, the ineffectiveness of these regulations is evident. It should be noted that the ECSR, like the ECtHR, has consistent case law establishing that when assessing whether a State Party's regulatory framework complies with the Charter, the analysis must consider not only the formal legislation but also its practical application.

39. Although the law adopts a broad concept of abusive prostitution and/or prostitution carried out under conditions of vulnerability, in practice, the case law in criminal matters has applied a restrictive interpretation of these new offences. Furthermore, although labour case law gives no legal validity to a direct relationship involving the purchase of sexual services (unlike relationships involving social companionship or hostessing in social clubs), it has recognised the legitimacy of organisations representing the “trade union” interests of prostitutes. The Supreme Court judgment of 1 June 2021 quashed and annulled the judgment of the National High Court of 19 November 2018 (case 258/2018), which had declared the union's statutes null and void on the grounds that they endorsed prostitution as a form of sexual exploitation within an employment relationship. The Supreme Court upheld the union's statutes, thereby legalising them and opening a path towards formal legal recognition. More worryingly, it is clear that the extremely low number of criminal convictions for abusive prostitution or prostitution under conditions of vulnerability stands in stark contrast to the factual reality. According to available data, even at a conservative estimate, **no fewer than 24 percent of women in prostitution are at a real risk of trafficking and/or sexual exploitation, and around 80 percent are at lesser risk.**

40. The ineffectiveness of this regulatory framework (including immigration legislation, which is particularly significant), due to the lack of guarantees ensuring effective enforcement, is also evident in the official data, as found, for example, in the aforementioned [“Resumen ejecutivo anual de trata y explotación de seres humanos 2024”](#) [2024 Annual Executive Summary on Trafficking and Exploitation of Human Beings,] prepared by the Intelligence Centre against Terrorism and Organised Crime (CITCO), in the section [Balances and Reports](#) section.

An evolutionary perspective is provided by the [“Balance estadístico 2020-2024 sobre trata y explotación de seres humanos en España”](#) [“2020 – 2024 Statistical Report on Trafficking and Exploitation of Human Beings in Spain”], which shows how prevention and efforts to combat this criminal phenomenon have developed over the past five years. Of the total number of victims, **513 were recruited by organised criminal trafficking networks**, through deception, violence or abuse, for sexual exploitation, labour exploitation, forced marriages and the commission of criminal activities. An additional **1,281** victims were also subjected to processes of sexual exploitation in prostitution settings, or to labour exploitation involving the restriction or violation of their rights, although in their cases it could not be proven that they had arrived in this

situation through the intervention of an [organised human trafficking network](#). Once again, it must be acknowledged that, although it is very positive that crime associated with prostitution and trafficking is being prosecuted, that **public policies clearly fall far short of protecting (preventively and socially) the vast majority of women who are victims of the degrading, abusive and vulnerable conditions in which prostitution is carried out in Spain.**

41. Neither the legislation (*criminal, immigration and social*) nor, above all, its practical application in Spain is consistent with the idea that most situations of prostitution involve people who are not only not free – their decisions depend on others, whether or not a criminal organisation is involved – but who also engage in prostitution under conditions that violate human dignity and entail extreme socioeconomic precariousness. For many Spanish associations fighting against trafficking and prostitution (e.g., the Spanish Association *Acción Contra la Trata* [‘Action Against Trafficking’]), although data on prostitution and trafficking are opaque, there is now sufficient evidence to confirm that not only traffickers but also pimps can very easily obtain signed statements from women affirming that they engage in prostitution of their own free will. The term “forced prostitution” is misleading, because it leads us to imagine situations of explicit violence, whereas in this market such violence generally takes the form of [subtle manipulation](#).

42. Another clear example of the ineffectiveness of Spanish legislation in this area lies in the fact that the aforementioned legal prohibition on prostitution advertisements has also failed to achieve its purpose. On the one hand, officially, the Internet Observatory of the Ministry of Consumer Affairs has carried out a study on prostitution advertising on web portals and has found that, despite the fact that such advertisements are prohibited by law, numerous online platforms continue to offer advertising space [“so that, in a seemingly autonomous manner, those who engage in prostitution can advertise themselves.”](#) In practice, therefore, mechanisms still exist to circumvent the prohibition. On the other hand, it is plain to see that this prohibition is markedly insufficient to achieve the broader objective of reducing the demand for the purchase of sex services, since demand has been rising steadily in recent years. Therefore, the measure is certainly necessary albeit insufficient (a necessary condition, but not one sufficient to reduce the demand for prostitution).

43. Moreover, the mere threat of pecuniary sanctions against website operators – measures designed to protect consumers, when the aim is to protect those who engage in prostitution – underscores the deficiency of Spanish law. Finally, and in relation to what has just been indicated, it is also open to criticism that this measure – so characteristic of liberal civil guarantees (prohibitive and punitive) – is not accompanied by social (benefit-based) guarantees, such as assistance or alternative measures to mitigate the lack of means of subsistence for those whose income from the sale of sex

is reduced when the dissemination of advertisements is restricted in order to discourage purchase.

44. It is very important, for the coherence of this collective complaint, to take this comprehensive and social dimension into account. The abolitionist model that we, the signatories of this collective complaint, seek must be comprehensive; it cannot stop at merely prohibiting or discouraging the purchase of sexual services. It must include specific measures that facilitate access for women and girls leaving prostitution to integration rights and services – that is, to the system of rights guaranteed by the Charter. Only in this way could the criticism of this prohibitive measure on prostitution advertisements – voiced by those who advocate for permissive regulation of prostitution as sex work – be addressed, namely the argument that [such restrictions generate harmful effects on the financial stability and safety of prostitutes, regarded as sex workers.](#)

45. The absurd threat of imposing financial penalties on website owners – penalties conceived for the protection of consumers – when the aim is supposedly to protect those engaged in prostitution, is nothing more than evidence of the Government’s powerlessness in the face of its inability to achieve the political consensus necessary to reform the regulation of voluntary prostitution and all the conduct associated with it, ranging from pimping to *tercería locativa* rentals. And this cannot be resolved by stretching the purpose and meaning of the laws solely with a view to allowing the Ministry of Consumer Affairs to use the instruments at its disposal to pursue and sanction conduct it considers intolerable – but which the legislature has chosen not to criminalise.

46. Finally, with regard to legislation on foreign nationals, we have already seen its limitations. The procedures for obtaining a temporary and exceptional residence and work permit are not an alternative socio-labour pathway out of prostitution; rather, they require a situation of trafficking (a criminal offence) or co-operation with criminal proceedings. However, as is well known, no such option exists for prostitution per se, which is not illegal in Spain – except where specific situations of need are abused, not the general forms of vulnerability that, as shown, exist in the vast majority of cases in which prostitution is exercised. Therefore, there is a very restrictive law and practice, precluding its use as a means of social integration for a large number of women in prostitution, who are irregular migrant women. Hence the constant criticism by NGOs regarding its limitations as an institutional obstacle to leaving prostitution. **This would change if prostitution were classified – as we suggest that the ECSR do, in line with the RESC – as a form of gender-based violence.**

47. The signatories to this collective complaint are cognisant of the fact that the Spanish Government is aware of these legislative shortcomings and of the deficiencies

in comprehensive protection policies for the thousands of women who are daily victims of prostitution under abusive and vulnerable conditions, not only of trafficking. In this regard, following recent corruption scandals intertwined with prostitution-related matters, the government has announced that, after the summer, it will resume two draft laws which it has thus far been unable to move forward due to parliamentary difficulties, as well as major disagreements regarding their suitability. The bill seeks, on the one hand, to improve legislation against trafficking, especially for sexual exploitation (with a more effective transposition of EU regulations) and, on the other, to abolish prostitution.

48. However, this acknowledgment by the Government of Spain – and by some [regional governments](#) – of the urgent need to thoroughly reform the Spanish legal system and its policies to ensure effective protection against prostitution as a form of gender-based violence and a violation of women’s human rights – **merely amounts to officially acknowledging the significant prevailing shortcomings in this regard**, despite international commitments on the matter, while also revealing the Government’s powerlessness in light of its failure to reach the political consensus necessary to reform the regulation of prostitution and all the behaviours associated with it, ranging from pimping to third-party facilitation of prostitution, including the purchase of sexual services by clients.

49. However, in accordance with the settled case law of the ECSR, **parliamentary difficulties in achieving the satisfactory fulfilment of the State’s commitments under the RESC cannot justify ongoing passivity and/or a lack of action** or intervention – whether legislative or through public policy measures – to ensure those rights.

Moreover, **the adoption, where applicable, of a law of this kind, which criminalises any form of profiteering by third parties – mostly men** – from the commodification of women’s sexualised bodies, including through the purchase of sexual services by clients, in light of previous drafts, in no way guarantees comprehensive protection for victims in terms of safeguarding rights and providing social services enabling them to leave prostitution and integrate into society with dignity, through alternative livelihoods. **There has also been no progress to date on the promised comprehensive anti-trafficking law.**

50. This serves to reaffirm the necessity of lodging a collective complaint like this one, and the urgent need for a condemnatory ruling by the ECSR that ensures the effectiveness of the social rights under the RESC for women in prostitution, not only for victims of trafficking. These rights, as previously indicated and as will be explained in detail, are being violated by Spanish legislation and practice concerning forms of gender-based violence, such as the prostitution of women.

The vast majority are in a situation of material socioeconomic and personal vulnerability, even if this is not recognised as such in criminal practice.

Likewise, as statistics show, a very high percentage are to some degree at real risk of trafficking of women and girls for sexual exploitation, a phenomenon so closely linked to prostitution, despite not being the same in legal or practical terms. However, the legislation and practice do not envisage preventive protection against this risk; rather, they intervene only *ex post facto*, once the situation has already occurred.

51. In sum, regulatory ambiguity and the lack of public policies ensuring social protection are what characterise the situation in Spain. This passivity (inaction) and these shortcomings stand in stark contrast to the urgency of the problem: **Spain continues to be the “brothel of Europe,” according to available data, and a key destination for the trafficking of women, without effective measures being implemented.** The result is the continued suffering of thousands of women who endure these forms of violence and the violation of a significant part of the social rights recognised in the Revised European Social Charter, in line with other international treaties on human rights and sex and gender equality, and even with a higher standard of social guarantees, in the light of the jurisprudence of the ECSR, as will be explained shortly.

4. The international legal framework relating to prostitution and trafficking in women for sexual exploitation: the foundations of a human-rights and gender-based violence approach

4.1. Main international legal instruments relevant to resolving the collective complaint, as ratified by Spain

52. The ECSR’s settled case law recognises the imperative need to interpret the Charter’s provisions in light of international human rights standards. This need for systematic and universal interpretation is especially relevant with regard to the prostitution of women and girls, due to the heightened protection required.

53. Among the most relevant international normative instruments for the subject matter and outcome of this collective complaint (all ratified by Spain) are the following:

- The United Nations Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949);
- The Convention on the Elimination of All Forms of Discrimination against Women of 18 December 1979 (CEDAW).

Article 6 of this Convention urges States Parties to adopt “all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of the prostitution of women.” In its General Recommendation No. 38 on trafficking in women and girls in the context of global migration (2020), the Committee

on the Elimination of Discrimination against Women (CEDAW Committee) stated the following:

“... 30. Sexual exploitation persists due to the failure of States parties to effectively discourage the demand that fosters exploitation and leads to trafficking. Persistent norms and stereotypes regarding male domination and the need to assert male control or power, enforce patriarchal gender roles and male sexual entitlement, coercion and control, which drive the demand for the sexual exploitation of women and girls (...). The need to address the demand that fosters sexual exploitation is especially important in the context of digital technology, which exposes potential victims to an increased risk of being trafficked.”

54. The United Nations Special Rapporteur on contemporary forms of slavery, including its causes and consequences. This mandate holder highlights in her reports (e.g., the 2023 country visit to Canada – which follows the Nordic model of criminalising prostitution, fully upheld as constitutional) the great importance of the proper use of criminal legislation. Such legislation cannot criminalise sex work, as doing so removes protection and encourages abuse. In addition, she emphasises the position of the **United Nations Special Rapporteur on violence against women and girls**. In her statement of 27 October 2023 on French Law No. 2016-444, the Special Rapporteur welcomed the comprehensive approach to prostitution, since the protection of women and girls in prostitution includes alternative measures (social guarantees), while at the same time adopting deterrent measures against all those who exploit their vulnerability – not only traffickers and pimps, but also those who purchase sex (clients, known as *puteros*, i.e. “Johns”), who are predominantly men. She fully endorses the approach established in the aforementioned CEDAW Committee General Recommendation No. 38 and in UN General Assembly Resolution 77/194 on trafficking in women and girls, of 15 December 2022, stating:

‘The criminalisation of the purchase of sexual acts has a strong legal basis in international human rights law as it is recognised as a legitimate instrument that States can resort to in order to protect anyone, including women and girls against exploitation and abuse.’

She criticises the thesis that decriminalising the demand for the purchase of sexual acts would improve the safety, dignity and living conditions of women in prostitution, noting that this theory is not supported by factual evidence and pointing out the following: *‘Prostitution results in grave human rights violations for those women and girls involved, and negatively impacts their physical, psychological and social health.’*

4.2. Instruments of the Council of Europe related to civil rights.

55. In the European context, particularly relevant is the **Convention of 16 May 2005 on Action against Trafficking in Human Beings** (“Convention against Trafficking”).

Its Article 6 also emphasises the need for States to focus on reducing and discouraging the demand for prostitution, as that demand is considered the main driver of various forms of exploitation of persons, especially women and girls. It also calls for a comprehensive policy for the protection of women and girls through legislative, educational, administrative, social and cultural measures. It places a particular emphasis on preventive measures. Chapter VII establishes a monitoring mechanism to supervise the implementation of this Convention by Member States. This mechanism is based on two pillars: 1) the Group of Experts on Action against Trafficking in Human Beings (GRETA), and 2) the Committee of the Parties, a political body. In its third evaluation report (18 February 2022), GRETA assessed French Law No. 2016-444 of 13 April 2016 – the French abolitionist law – and concluded that, despite its strengths and weaknesses, it evaluated positively the comprehensive intervention model introduced by this law (criminalisation of demand and measures for the social reintegration of women who are victims of prostitution and who choose to leave it). This is without prejudice to the need for continuous evaluation of these laws and policies, in order to prevent them from having counterproductive effects on the protection of women and girls. This requirement is reflected in the case law of the ECtHR, as will be noted.

56. For its part, the **Parliamentary Assembly of the Council of Europe**, in its Resolution 1983 (2014) entitled “Prostitution, trafficking and modern slavery in Europe,” of 8 April 2014, stated the following in very clear terms: ‘3. Although they are distinct phenomena, trafficking in human beings and prostitution are closely linked. It is estimated that 84% of victims in Europe are trafficked to be forced into prostitution; similarly, victims of trafficking represent a large share of sex workers (...).

Considering the significant overlap between the two phenomena, the Assembly believes that legislation and policies on prostitution are indispensable anti-trafficking tools. (...).

6. Forced prostitution and sexual exploitation should be considered as violations of human dignity and, as women are disproportionately represented among victims, as an obstacle to gender equality. (...).

8. The Assembly acknowledges that *it [is] difficult to propose a single model of prostitution regulations that would fit all Member States*. It believes, however, that human rights should be the main yardstick in designing and implementing policies on prostitution and trafficking.

9. Irrespective of the model chosen, legislators and law-enforcement officials should be aware of their responsibility to ensure that sex workers, where prostitution is legalised or tolerated, may carry out their activity in dignified conditions, free from coercion and exploitation...(..).

11. Furthermore, in all cases, the authorities should refrain from considering prostitution regulations as a substitute for comprehensive action aimed specifically

against human trafficking, based on a sound legal and policy framework and implemented effectively. (...)

The Assembly calls on Member States to....:

12.1.1 *Consider criminalising the purchase of sexual services, based on the Swedish model, as the most effective tool for preventing and combating trafficking in human beings...'*

57. Precisely, the [ECHR judgment of 25 July 2024 \(M.A. and Others v. France](#), applications no. [63664/19](#) and four others), in upholding the French abolitionist model, establishes as a condition the need for a comprehensive social protection policy for women in prostitution. Otherwise, criminal measures would be ineffective and could worsen their living conditions.

58. The French abolitionist law is grounded in unequivocal legal principles: prostitution is one of the **most serious forms of violence** against women and girls, which not only **obstructs effective equality** between women and men, but also degrades (violates) human **dignity**. These principles consider prostitution, and the industry that sustains it, a flagrant violation of human rights. Although the ECtHR recognises different regulatory models in Europe, it concludes – unanimously – that the French model fully respects Articles 2, 3 and 8 of the European Convention on Human Rights (ECHR). This case law provides strong support for laws that criminalise prostitution, as an appropriate measure for protecting women in prostitution and for punishing pimps, who are criminal exploiters, as well as clients ('puteros', or 'johns'), as they promote the creation of markets and practices that sexually objectify women.

4.3. Prostitution (of women and girls) within the European Union: the democratic reaffirmation of the understanding of prostitution as a form of gender-based violence and discrimination that assaults the dignity of women

59. **This critical understanding of prostitution as a form of gender-based violence** and a practice contrary to the dignity of women is fully embraced and reaffirmed by the **European Parliament**. On 26 February 2014, the European Parliament adopted a resolution on sexual exploitation and prostitution and their impact on gender equality (2013/2103(INI)), in which it called on Member States to adopt legislation targeting both buyers of sexual services and women and minors, through sanctions, awareness-raising campaigns and education.

60. On 21 January 2021, it adopted a resolution on the European Union's Gender Equality Strategy, noting, in particular, **that prostitution market fuels the trafficking of women and children and exacerbates violence against them, particularly in countries where the sex industry has been legalised** (paragraph K). On 10 February 2021, it approved another resolution on the implementation of Directive 2011/36/EU on

preventing and combating trafficking in human beings and protecting its victims, noting that there are Member States where prostitution is legal, which greatly facilitates traffickers' ability to exploit their victims within a legal framework, and reiterating their legal obligation to discourage and reduce demand for all forms of exploitation.

61. The same issue was later addressed in its **Resolution of 14 September 2023 on the regulation of prostitution in the EU: its cross-border implications and impact on gender equality and women's rights** (2022/2139(INI)). In summary, it highlighted the relevance of the Nordic model for the EU, as it is more consistent with EU Anti-Discrimination Law and has practical effects in reducing both the supply of and demand for prostitution, while acknowledging once again that there is no single, universal solution among EU Member States.

62. Very noteworthy, for the purposes of this collective complaint, is its criticism of the supposedly "free" character of the consent of women in prostitution, because it cannot be considered as such when it is produced within a relationship with a profound imbalance of power, such as one involving the purchase of sex. Therefore, validating consent obtained merely through the offer or acceptance of payments or benefits would be unjustified. In any case, it emphasises that even if consent is valued as free, it "can be extremely difficult for people to realise that they are victims, especially when they are not aware of their rights, and recalls the dynamics of an abusive relationship...". Finally, it is worth noting its observation that:

"14 [...] prostitution and trafficking for sexual exploitation exist because there is a demand for it; stresses that, besides addressing the vulnerability of potential victims and prosecuting traffickers and facilitators, among others, demand reduction is a key instrument for the prevention and reduction of human trafficking, as it targets financial incentives; believes, therefore, that this should be developed further in the revision of the EU Anti-Trafficking Directive; underlines the importance of discouraging demand in a way that does not harm or create negative repercussions for those in prostitution."

63. It is therefore clear that the European Parliament applies a much more protective and realistic standard regarding the dynamics of "consent" in the prostitution relationship, revealing its artificial and therefore weak and scarcely free nature – far more so than the standard applied by the ECtHR itself. The latter has always considered prostitution to be fundamentally incompatible with human dignity and the rights inherent to it when coercion is involved, especially when an organised network and trafficking are present (e.g., S.M. v. Croatia; Rantsev v. Cyprus and Russia, No. 25965/04).

64. By contrast, the European High Court of Human Rights has always considered controversial the question of whether prostitution can be freely consented to or whether such consent is invariably restricted or blurred by the socioeconomic conditions that overwhelmingly encompass these sexually purchased relationships – as the European Parliament correctly understands, in our view. **For this reason, the Court has sought to avoid issuing a specific ruling on the matter** (as noted in paragraph 155 of the aforementioned ECtHR judgment of 25 July 2024). This evasive approach has been challenged by organisations fighting against the scourge of prostitution and advocating for abolitionism, which – as will be explained – we consider should not influence the substantive decision that the European Committee of Social Rights is called upon to adopt, as requested here, based on the more realistic and protective standard of its own case law. This abstentionist position of the ECtHR is linked to its deference to the national criteria assessed in each case, allowing it to preserve a broad margin of appreciation for that purpose, such that it may validate one model and also its opposite. This is an ambiguity that, as will be argued, we consider incompatible with the RESC and the case law of the ECSR.

65. It should be noted, in any case, that the European Parliament’s approach to prostitution as a form of gender-based violence was ultimately not reflected – despite proposals to that effect (2023) – in Directive (EU) 2024/1712 of the European Parliament and of the Council of 13 June 2024, amending Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims. **Paragraph 26 calls for a comprehensive approach to reducing the high levels of demand that fuel not only trafficking but all forms of exploitation** (both labour and sexual), **such as prostitution.**

In this regard, the Directive is conceived as a minimum legal framework, meaning that Member States are free to “adopt or maintain more stringent criminal rules,” including **“criminalising the purchase of sexual acts.”** However, it also specifies that the Directive *“is without prejudice to the way in which Member States deal with prostitution in their national law.”*

66. Finally, it is worth noting that, on the basis of remaining outside ethical-social considerations and prioritising the EU’s economic freedoms, the Court of Justice of the European Union (CJEU) has consistently recognised the legitimacy of prostitution insofar as it is carried out as an autonomous provision of services. Prostitution performed independently may be regarded as a remunerated service and is therefore covered by the freedom to provide services and by the freedom of establishment (e.g., CJEU judgment of 20 November 2001, C-268/1999).

5. On the admissibility of the collective complaint

5.1. **The State Party against which the collective complaint is directed: Spain has accepted the collective complaints procedure**

67. The collective complaint is directed against the Kingdom of Spain. Spain has ratified the Revised European Social Charter, with effect from 1 July 2021, as set out in the Instrument of Ratification of the European Social Charter (revised), done at Strasbourg on 3 May 1996, and published in Official State Gazette (BOE) No. 139 of 11 June 2021.⁶ The Revised European Social Charter entered into force for Spain on **1 July 2021**, in accordance with the provisions of its Part VI, Article K(2) and (3).

68. Likewise, the collective complaints procedure entered into force for Spain on 1 July 2021, following the declaration made for that purpose under Article D of the Revised ESC. This declaration is set out in the ratification instrument filed on 17 May 2021 and published in the above-mentioned Official State Gazette (BOE). This is a matter that gives rise to no uncertainty, since the Charter’s supervisory body, the ECSR, has already issued several Decisions on the Merits in response to various collective complaints brought before the system’s highest compliance-monitoring authority – the first of them lodged, precisely, by UGT (decision on the merits of 20 March 2024, Complaint No. 207/2022).

5.2. The complaint is thus admissible *ratione temporis* and *ratione materiae*

69. The regulatory framework of the Spanish State concerning the social and subcultural phenomenon-institution of prostitution, and the associated risk of sexual exploitation of women and girls, has remained fully in force since 1 July 2021 (the date on which the Revised ESC and the collective complaints procedure entered into effect for Spain).

Furthermore, some of the regulations concerned were adopted after the ratification of the Revised ESC and the acceptance of the collective complaints procedure. In sum, the Committee has full competence *ratione temporis* to hear this complaint.

70. In connection with the above, the subject matter of the complaint relates to **Articles 1§2 and 1.4** (the right of every person to freely chosen work), **3** (the right to protection of physical and mental health and safety), **7** (the right of children and young persons to protection), and **26** (the right to dignity at work and in the provision of services) of the Revised European Social Charter (RESC). **All of these provisions form part of a body of norms with a distinctly social and labour-related character, which falls squarely within the scope of activity of the claimant trade union.**

Furthermore, the complaint seeks a finding of non-conformity with these provisions not only separately, but also in conjunction with Articles:

- 16 (protection of the family)
- 17 (legal and socio-economic protection of girls and young persons)

⁶ https://www.boe.es/diario_boe/txt.php?id=BOE-A-2021-9719

- Article 20 (right to equal opportunities without discrimination on the grounds of sex)
- Article 27 (equal employment opportunities for persons with family responsibilities).
- Article 30 (protection against poverty)
- Article 31 (the right to housing).
- As well as Article E (non-discrimination on grounds of sex or gender).

All of these provisions have been accepted by Spain in its Instrument of Ratification, as Spain has accepted all the substantive provisions of the Revised ESC. The complaint is therefore also admissible *ratione materiae*.

5.3. The trade union bringing the collective complaint is a class-based trade union: Unión General de Trabajadores (y trabajadoras) (UGT)

71. The Unión General de Trabajadoras y Trabajadores (UGT) is one of the most representative class-based trade unions in Spain. As a class-based trade union, it has a long history of labour activism, not only in matters strictly related to socio-labour policies, but also in the broader field of social policies inherent to the social principle of the constitutional state under the rule of law, adhered to by Spain. Founded in the nineteenth century, it is recognised as a social entity of constitutional relevance under Articles 7 and 28 of the Spanish Constitution, in accordance with the constitutional doctrine established for that purpose. This doctrine acknowledges the union not only as a contractual actor (in employment relations), but also as an entity with social and institutional agency (STC 18/1984 [Spanish Constitutional Court judgment]), and thus a key social interlocutor for public authorities across the sphere of social policy.

72. There is no doubt that protecting tens of thousands of women from prostitution – fundamental to the overall well-being of these individuals and their families, who are in particularly vulnerable situations – has a direct impact on their own professional, social and economic interests. This has been demonstrated for a long time, as will be explained below.

73. Following UGT’s 43rd Confederal Congress (May 2021), its name was changed to “Unión General de Trabajadoras y Trabajadores de España,” while retaining the acronym UGT. It is a member of the European Trade Union Confederation and is also affiliated with the International Trade Union Confederation.

5.4. Standing of the UGT to lodge collective complaints before the ECSR as the most representative trade union at state level

74. The UGT therefore has standing to lodge collective complaints under Article 1(c) of the Protocol. According to this provision, UGT falls within the category of organisations that are competent to submit complaints alleging unsatisfactory

application of the Revised ESC, as is this case here, in relation to Article 24. The UGT is one of the: “*c) representative national organisations of employers and trade unions within the jurisdiction of the Contracting Party against which they have lodged a complaint.*”

As the Committee can easily verify, in addition to its representative nature, the UGT is competent and particularly qualified to report violations of labour and social rights recognised in the European Social Charter (first in its original 1961 version and then in its 1988 Protocol, and now in its 1996 revised version), as it has shown not only through its experience in the domestic arena but also over many years in which it has submitted observations to the Committee regarding the reporting system.

75. Ultimately, at the socio-economic and cultural foundation of this collective complaint lies a different model of developing decent work, as envisaged in the 2030 Agenda adopted by the [UN General Assembly in 2015](#), which includes among its objectives the eradication of poverty in all its forms and dimensions, the fight against inequality within countries, the creation of sustained, inclusive and sustainable economic growth and the promotion of social inclusion – objectives that are interconnected and interdependent. There can be no doubt that the fight against prostitution – as a form of human rights violation affecting dignity, and of gender-based violence, given the overwhelming presence of women, often in an irregular administrative situation in Spain – constitutes a central pillar of social welfare and, therefore, of the social principle of the constitutional State, both national and European. It is essential for the free and full development of private and family life and lies at the heart of various economic and social policies.

76. Despite the legalisation of these practices in Spain, the status of women is merely devalued into a market commodity, a strictly economic commodity, generating a grim market dedicated to their commodification. Correcting this reality on the basis of human rights and equality between women and men is an essential task for promoting a more dignified model of economic growth. Its harmful social impacts (violence, effects on health, abusive working conditions, lack of access to social-inclusion services, etc.) cannot be matters to which a class-based trade union remains indifferent. Indeed, they concern it directly, and it is obliged to pursue all appropriate avenues to dismantle this deeply rooted legal, social and cultural situation in Spain – the European country with the highest demand for prostitution.

77. The UGT brings collective complaints through the organ empowered to do so under its statutes. Currently, the position of Secretary General of the UGT is held by José María Álvarez Suárez.

In accordance with its Article 4, this complaint is submitted in writing and refers to several provisions of the Charter, although its central focus is on Article 31 RESC, which has been accepted by the defendant Member State, Spain. The following section will

specify to what extent that Party has not ensured satisfactory application of this provision and of the associated body of provisions that is particularly affected (section 4 below).

78. This complaint has been addressed, in accordance with Article 5 of the Protocol of Implementation, to the person holding the office of Secretary General, who is requested to take the most appropriate steps in line with the requirements of that article.

5.5. The UGT has a proven track record of combating prostitution from an abolitionist perspective and in defence of the social rights of women who are victims

79. Furthermore, the class-based trade union with the highest representativeness, which hereby submits this collective complaint, considers it appropriate to highlight before the ECSR – whom it addresses in seeking the aforementioned conclusion of non-conformity by the Spanish State with the Revised ESC – its long-standing record of advocating for a more appropriate regulatory framework in relation to prostitution. This trajectory and these proposals are fully aligned with the current human-rights-based approach and with the framework of protection against gender-based violence predominantly adopted under international law in this area, and they stand in contrast to the persistent lack of definition and the leniency in Spanish legislation and practice. Such shortcomings have contributed to Spain’s becoming the EU country with the highest level of demand for prostitution, and to the fact that it now faces a very significant number of women at risk of sexual exploitation, according to the official estimates cited above.

80. The debate on how best to regulate prostitution has always been a very uncomfortable one in Spain and, even today, remains something of a taboo. In Spain, more than forty years into its democratic period, it is still difficult to give this issue the visibility it deserves, and there are sharp political and [social divisions](#) surrounding it.

Nevertheless, for at least twenty years, UGT has stood out for leading an advocacy movement calling on successive governments to abolish prostitution and urging them to show courage in taking such a decision. In various statements, it has argued that prostitution is “a violation of human rights” that fundamentally undermines the principle of real equality that a democratic society must uphold. From this standpoint, it not only rejects any proposal to regulate this phenomenon (*‘regulationism’, i.e. licenced prostitution’*) as just another form of employment, but also calls for the prohibition of the purchase of sexual services. This has been reflected in the [media](#). The union is not limiting itself to advocacy; it has moved into action.

81. That is why, in 2015, it launched a campaign calling for the [removal and prohibition of prostitution advertisements in the press](#). In response to this widespread

and highly profitable practice, the union demanded that such ads be banned. Although the campaign was not particularly successful – since almost ten years passed before these advertisements were prohibited by law (Article 11 of Organic Law 10/2022 of 6 September, on the comprehensive guarantee of sexual freedom) – it nonetheless served to highlight a serious problem in Spain: far from there being measures to discourage the demand for prostitution, it was being encouraged through dissemination in all media outlets, even “reputable” ones. Nor has this legal measure achieved its intended objective (the prohibitive provision faces numerous legal obstacles to its application, such as the difficulty of determining when the offence has occurred and imposing the announced fines, which are more theoretical than real – Miriam Cugat Mauri, [El cierre de las webs de prostitución y los consumidores](#) [‘The closure of prostitution websites and their consumers’], Almacén de Derecho, 2023). However, it demonstrates the union’s long-standing action in favour of the abolition of prostitution and the protection of the rights of women victims.

82. Subsequently, **UGT – drawing on its Congress Resolutions (reaffirmed at the 44th Congress in 2024) – viewed positively** (in 2018), albeit as a very partial and limited measure, the Government’s refusal to register as a “professional trade union” those organisations which, invoking trade union freedom (Article 28 of the Spanish Constitution), claimed to represent prostitutes as “sex workers,” not only hostesses or nightclub workers. In the union’s view, prostitution is, in the overwhelming majority of cases, linked to sexual exploitation and violations of human rights, not merely the risk of criminal practices associated with trafficking in human beings. Therefore, there is no dignified or effective alternative other than – alongside social support for persons engaged in prostitution, most of whom are women and girls – to [“prohibit the demand or purchase of sexual services.”](#) Regrettably, as noted above, Spanish case law overturned this political decision and gave legal and trade-union recognition to the prostitutes’ organisation OTRAS (Judgment of the Supreme Court of 1 June 2021).

83. It is clear that the actions undertaken thus far have been necessary but not sufficient (e.g., the legal prohibition of prostitution advertisements and the threat of high penalties for non-compliance) to put an end to the previous and current situation of tolerance. Moreover, these measures have not reduced the exceptionally high demand for prostitution in Spain – which is what undoubtedly gives rise to the existence of the networks organised to provide prostitution by exploiting the particular vulnerability of women and girls. **The Secretary General of the claimant trade union criticised the failed 2024 draft law against prostitution, noting that** [“the resolutions of our Congress defend the abolition of prostitution, and this proposal was in line with that position.”](#) It is essential – and urgent – to establish more systematic and effective measures that address this legislative vagueness and leniency in Spain, as well as the shortcomings in public policies for protecting women who are victims of the violence

inherent in prostitution itself, and the structural risk of trafficking for sexual exploitation associated with it.

6. On the merits of the collective complaint: legal grounds for the non-conformity of Spanish legislation on prostitution with various provisions of the RESC

84. Article 5 of the collective complaints Protocol requires the entity with standing to set out, precisely and specifically, why, in its view, the national legislation being challenged, in this case Spanish legislation, does not fulfil, or conflicts with, the requirements laid down in the ESCR provisions deemed to have been violated, both in themselves and in relation to other provisions of this Social Constitution of Europe. In this case, it must be noted that, since prostitution is a socially normalised institution – also as a subculture – the range of RESC rights that are deemed to have been violated is very broad, as already indicated in the delimitation of the subject matter above (Section 1). In the pages and sections that follow, the legal arguments on which UGT bases its complaint will be set out in an orderly manner, with a view to obtaining, once the complaint is declared admissible, a favourable decision from the ECSR.

6.1. Articles 1§2 and 4 RESC and the relevant case law: the material conditions under which prostitution is carried out (by women and girls) prevent a free choice of occupation due to the absence of alternative socio-labour measures

85. Article 1 RESC, concerning the protection of the right to work, in paragraph 2 recognises the State’s obligation to “*protect effectively the right of the worker to earn his living in an **occupation freely entered upon.***” Paragraph 4, in turn, provides for the obligation to “to provide... appropriate vocational guidance, training and rehabilitation.” The subjective right dimension of these positive State obligations is reflected in Articles 9 and 10 RESC.

86. As is well known, the guarantee of freedom to choose a profession, job, or occupation seeks to protect every person from “forced or compulsory labour,” in line with Article 4 of the European Convention on Human Rights. In this respect, both the ECSR and the ECtHR have considered forced prostitution to be incompatible with this guarantee. However, neither the ECSR has yet ruled, nor has the ECtHR wished to rule, as noted above (ECtHR judgment of 25 July 2024), on the compatibility of this social guarantee with prostitution as such, despite the fact that it is ordinarily carried out by persons in situations of socio-economic and personal vulnerability. The expression of consent in these circumstances is not free but fictitious – merely apparent. Furthermore, the absence in Spain of a public policy offering alternative measures for those who wish to leave prostitution – aside from situations involving police and/or criminal proceedings – constitutes a failure to comply with the State’s obligation to provide

effective alternatives that would allow the choice to engage in sexual services to be genuinely free, as well as programmes of re-adaptation or training to enable such occupational alternatives. This requirement is also provided for in Article 1.4 and in Articles 9 (Conclusions I, 1969, Statement of Interpretation) and 10 RESC.

87. Those who insist that there is a significant – albeit minority – segment of “free” or “voluntary” prostitution deliberately ignore the entire system that produces artificially constructed (and illusory) narratives of false empowerment, a kind of “prostitutes’ pride” in being socially dignified sex workers. In this way, any hint of abuse, violence, conditioning vulnerability, or individual and collective harm experienced by women in prostitution is erased. In the words of the aforementioned well-known activist Amelia Tiganus: *“It is much easier to manufacture proud whores than feminist activists.”* However, it is settled case law of the ECSR that the protection of social rights must be grounded in the actual, not merely formal, situation, so that the enjoyment of rights is real rather than merely formal or symbolic – as is the case in most situations of prostitution, as evidenced by the extremely high proportion of women who engage in such practices under conditions of precarity, abuse and risk of sexual exploitation. This is not merely anecdotal or occasional; it is structural. The data support this.

88. Data, practical experience and reports from numerous NGOs that combat prostitution from a human rights perspective demonstrate that there is no such thing as a “right to prostitute oneself” or “freedom to do whatever one wants with one’s own body”; rather, this is a brutal reality for women and girls. These sources highlight a very high rate of sexual violence, even at very early ages. The NGO CAP International (Coalition for the Abolition of Prostitution), which submitted observations in the ECtHR judgment of 25 July 2024, cites an Australian study showing that seven out of 10 women prostitutes had suffered sexual violence before the age of 18; the large-scale Spanish study estimates that 80% of women in prostitution are at some level of risk of trafficking, and 24% are at clear risk of suffering violence for purposes of sexual exploitation.

89. Accordingly, the claimant trade union requests that the ECSR, in an innovative manner, incorporate the new scientific evidence into its legal analysis of the concept of consent in order to ensure a concept of freedom that is real and effective. Thus, taking into account the higher standard of legal and social protection afforded by the RESC and the ECSR’s doctrine – particularly in relation to the European Convention on Human Rights and the European Court of Human Rights – by focusing on the actual, not presumed, formal or symbolic, material conditions of a given situation, it follows that the Charter system is compatible only with a right to freedom of choice of profession or occupation that emphasises its significance within a democratic society based on a strict understanding of the real exercise of human rights. In addition, one must also take into account the profound imbalance of power, circumstances and options between those who sell sex – generally due to conditions of vulnerability compounded by the absence

of alternative means of sufficient income – and those who benefit from its commodification (pimps and clients).

90. Ultimately, as the ECtHR stated in *De Wilde, Ooms and Versyp v. Belgium*, Nos. 2832/66, 2835/66 and 2899/66, judgment of 18 June 1971, freedom of choice is of great importance and must be taken seriously; it cannot be understood as something that can be lost or downgraded – thus forfeiting the benefit of effective protection – merely because a person becomes involved in a commercial sexual transaction. This is all the more true, it is added, when it is scientifically and socially established that prostitution is carried out, in the overwhelming majority of cases, under conditions of extreme socio-economic and personal vulnerability. Therefore, regardless of the national model for regulating prostitution, the social-rights approach of the RESC requires effective guarantees enabling individuals to leave that situation in a real – not merely theoretical, formal or symbolic – manner. Such measures, as has been shown, are not yet present in Spanish law or practice. The vast majority of women in prostitution do not choose it; they are forced into it to survive.

6.2. Violation of Articles 3, 11 and 26 Charter: *protection of the physical and psychological safety and health of prostitutes, as well as the dignity of women*

91. In this context, prostitution represents a violent and cruel way of experiencing sexuality, with harmful effects arising from the excessive commodification and objectification of women (and girls), thereby damaging the comprehensive personal development – physical, psychological, and social – of women as a result of the practices of men. Both scientific evidence and practice show that **prostitution has severe detrimental consequences for women’s health**. In line with the health-based approach of ILO Convention No. 190, it is clear that the various forms of violence – physical or otherwise – inflicted in prostitution undermine the well-being of these groups of women (and girls), generating states of physical, psychological and social distress (*Médicos del Mundo*, 2020, *La prostitución como forma de violencia de género. La percepción de las mujeres en situación de prostitución* [‘Prostitution as a Form of Gender-Based Violence: The Perception of Women in Prostitution’]).

92. On the one hand, the pressure exerted by “clients” affects the physical and psychological health of women, with particular impact on their sexual and reproductive health. To this must be added the consequences of violence inflicted by other actors, in which stigma plays an important role. Women’s perceptions of prostitution are associated with negative emotions (mistrust, humiliation, disgust) that undermine their self-esteem and self-image, along with feelings of distress, insomnia, frustration and the inability to build support networks. Perceptions related to humiliation clearly reveal the exercise of male domination through prostitution (which endangers or violates moral integrity and dignity – interests protected under Article 26 RESC). Deception is a central

element in prostitution environments; it keeps women in a constant state of alert, diminishes their self-belief, casts doubt on their emotions and prevents the creation of supportive networks among women, thereby harming their psycho-emotional health. Therefore, we consider these conditions of prostitution – combined with the absence of a comprehensive plan in Spain to address these situations – **to be in direct conflict with Articles 3 and 11, Article 7, and also with Article 26 of the Charter.**

93. **Article 3**, according to ECSR case law, protects not only physical health but also mental health (Conclusions 2003, Statement of Interpretation on Article 3§1, and Conclusions 2003, Bulgaria, refer to stress, violence and psychosocial factors and risks) in the exercise of any activity, given that it is a universal social right. Hence the requirement to promote the progressive development of occupational health services for all workers with essentially preventive and advisory functions (Article 3§4).

94. A preventive and advisory dimension is likewise recognised – now with a strictly universal character – for every person under **Article 11 RESC** (Conclusions 2005, Statement of Interpretation on Article 11). To that end, **the State has a positive obligation** to eliminate, as far possible, the causes and conditions of poor health and to establish adequately staffed counselling services aimed at improving health and fostering a sense of individual responsibility in that regard. The Committee has held that Article 11 imposes both positive and negative obligations on States (*Transgender Europe and ILGA-Europe v. the Czech Republic: Complaint No. 117/2014, decision on the merits of 15 May 2018, §79*). In *FIDH v. France*, the Committee held that “[H]uman dignity is the fundamental value and indeed the core of positive European human rights law – whether under the European Social Charter or under the European Convention of Human Rights and health care is a prerequisite for the preservation of human dignity.” (*International Federation of Human Rights Leagues (FIDH) v. France, Complaint No. 14/2003, decision on the merits of 3 November 2004, §31*).

95. Within this normative context and framework of social guarantees, it is important to note the ECSR’s settled case law establishing obligations to protect individuals effectively from drug use, particularly to safeguard the health of young people (Conclusions XVII-2, 2005, Malta; Conclusions XV-2, 2001, Portugal; Conclusions XV-2, 2001, Greece; Conclusions 2013, Malta). Women and young people are, in this case, groups that are especially vulnerable and require more effective protection – protection that is undoubtedly lacking in Spain.

96. Indeed, as we have explained, one of the most widespread practices in prostitution is the recruitment of young women by initiating them into drug use, which then generates significant pressure to combine sexual purchase practices with drug consumption. Therefore, drug use is linked to prostitution in various ways. One such link is the consumption of substances by women in prostitution – even when they are minors – during the initial recruitment phase by organised networks. This consumption

may be either prior or subsequent. In the first case, drug use precedes prostitution, which then appears as a means of obtaining income to pay for the substances.

97. By contrast, consequential drug use appears as an effect of entering prostitution: substances are consumed as a way to escape or endure the situation, or because it helps attract “clients,” who frequently demand that women use drugs with them. Moreover, the stigma of prostitution combined with the stigma attached to women who use substances further increases their social vulnerability. In this regard, many testimonies from women in prostitution and researchers conclude:

“The truth is that after ten years I don’t know a single woman who says she wants to work in prostitution; they all carry pain, a sorrow about the life projects they have lost... whatever their circumstances. Many medicate themselves in order to engage in prostitution; they take drugs.” (Psychologist, Zaragoza; in field research by Beatriz Ranea Triviño, *Feminización de la supervivencia y prostitución ocasional* [‘Feminisation of Survival and Occasional Prostitution’], 2010, p. 124).

98. Under **Article 11§1 of the Charter**, the Committee has defined health, in accordance with the WHO, as “a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity” (Transgender Europe and ILGA Europe v. Czech Republic, Complaint No. 117/2014, cited above, §71). In addition, the Committee has held that States must respond adequately to avoidable health risks – namely, those that can be controlled through human action (Conclusions XV-2 (2001), Denmark). Today, it is scientifically recognised – and reflected in the work of the ILO – that the protection against harmful substance use and addictions must be incorporated into health policies.

99. It should be noted that these obligations and rights cannot be merely theoretical; they must be effective, as the ECSR consistently requires [International Commission of Jurists (ICJ) v. Portugal, Complaint No. 1/1998, decision on the merits of 9 September 1999, §32; European Federation of National Organisations Working with the Homeless (FEANTSA) v. Slovenia, Complaint No. 53/2008, decision on the merits of 8 September 2009, §28]. It is evident that Spanish legislation lacks provisions adequate to these imperatives. Moreover, it must also be noted that laws alone are not sufficient; concrete measures must be designed and implemented to ensure compliance with these obligations [International Commission of Jurists (ICJ) v. Portugal, Complaint No. 1/1998, decision on the merits of 9 September 1999, §32], something even further lacking in Spain’s practical experience.

100. In sum, a combined reading of both provisions requires a public policy of positive obligations that promotes conditions and forms of sexual life that are pleasurable and healthy, developed within a framework of respectful, egalitarian, just and supportive social relationships – both among men and between men and women. Such

requirements are absent in prostitution, and correcting this situation demands laws and practices that do not exist in Spain.

Accordingly, for the reasons set out above, this party considers that there is clear non-conformity with the RESC. The ECSR points out that protection must be afforded at the highest possible level (decision on the merits of 11 September 2024, complaint).

101- Prostitution is also a form of violence in which various forms of violence converge and, consequently, it likewise violates the right to the protection of dignity and integrity under Article 26 RESC, interpreted in accordance with ILO Convention No. 190. Among the forms of violence that converge in prostitution are:

- The most common is the violence perpetrated by clients, which takes different forms (physical, sexual, economic) and is present in all cases of women interviewed, even when they do not recognise it as such.

It manifests itself as a continuum and constitutes an expression of male power and domination over women, with severe consequences for women’s physical and psychological health. Risky, non-consensual practices are the most frequent:

- Violence inflicted by those who manage prostitution venues, characterised by economic exploitation and also by the lack of protection for women from “clients”;
- Violence perpetrated by society, linked to sexist stereotypes associated with prostitution, which reproduce the patriarchal divide between “good” and “bad” women;
- Violence inflicted by peer groups, grounded in gendered expectations of hostility, competitiveness and rivalry among women;
- Violence experienced outside the prostitution environment – such as sexual violence in childhood, exposure to violence against the mother and violence within intimate-partner relationships or former relationships – which increases vulnerability.

102. In this context of material conditions under which prostitution is carried out – conditions that are incompatible with human dignity, the obligation of the Spanish State to provide effective preventive measures is deemed to be violated. It is true that Annex II to Article 26 RESC does not expressly require legislation on the matter, although Spain has recently adopted norms intended to address all forms of violence against women, such as Organic Law 10/2022 (LOGILS). Nevertheless, prostitution itself was ultimately not criminalised, something that the Government’s announced future bill would seek to address. What is unquestionable, however, is that Article 26 RESC, as interpreted by the ECSR, requires the adoption of effective measures that not only prohibit but also effectively prevent all forms of sexual violence that undermine the dignity of women and human rights, even when such violence does not constitute sexual harassment,

strictly speaking (Conclusions 2003, Bulgaria; Conclusions 2005, Moldova). This includes the prohibition of discrimination, an area in which prostitution must be considered, inasmuch as Spanish laws do classify all forms of sexual violence as manifestations of discrimination on grounds of sex (see Conclusions 2007, Statement of Interpretation on Article 26).

6.3. The legal and practical situation of prostitution in Spain is likewise believed to be in violation of Articles 16 (protection of the family) and 17 (legal, economic and social protection of girls and young women)

103. The analysis of the vast majority of the life trajectories of women (and girls) who engage in prostitution has confirmed that it is frequently used by women in general, and by migrant women in particular, *as a true strategy of sheer economic survival*. It is influenced by the interplay of various structural factors that converge in their frequent condition of particular socioeconomic and personal vulnerability (a feminisation-of-survival approach, present not only in permanent prostitution but also in occasional prostitution, situations that are even more invisible). Prostitution tends to appear as a last resort, as an activity of survival in situations of extreme economic need in order to cover housing costs, bills, some debt or unexpected expenses, and, in the case of those who are mothers, to secure the resources needed for the survival of their children and/or ascendants. It is not an episodic or exceptional situation, but one that is deeply present in a structural way (Raena Triviño, Beatriz, 2018. *Feminización de la supervivencia y prostitución ocasional*;⁷ [‘Feminisation of survival and occasional prostitution’]; field research based on a broad sample of women engaged in prostitution who sought employment-orientation services).

104. Among the socioeconomic and market-related structural factors (general economic and labour markets, and the prostitution market in particular) that influence this situation, the following should be highlighted, as we have already illustrated through figures and testimonies from scientific evidence:

- The feminisation of labour precariousness, characterised by part-time work, temporary contracts, lower wages, discrimination and sexual violence in racialised sectors such as domestic work and caregiving;
- The lack of childcare support networks and the absence of labour policies that facilitate the reconciliation of women’s personal, work and family lives;
- Prejudices and stereotypes surrounding women in prostitution, which hinder their ability to leave prostitution and enter the labour market, as well as their access to social goods and services, despite these being guaranteed social rights;

⁷ <https://fmujeresprogresistas.org/wp-content/uploads/2018/12/Investigación-Feminización-de-la-supervivencia-y-Prostitución-Ocasional-web.pdf>

- Family economic burdens, both in their country of residence and in their countries of origin, which constitute one of the strongest pressures pushing women into prostitution in the absence of income, in order to guarantee the survival of their dependents (children and/or parents).

105. Other factors that create a strong intersection of vulnerability for a significant portion of women in prostitution lie in their age and even in their status as minors under the guardianship of public administrations. In Section 2, we had the opportunity to demonstrate the complete failure of the Spanish model for the protection of minors in situations of neglect, whether they are foreign or not. A report prepared by GREVIA (Research Group on Child and Adolescent Victimization) for the [Government of Cantabria](#) quantified the situations of abuse suffered by adolescents living in residential centres. **Nearly one in five minors aged 14 to 17 acknowledged having been involved in some form of sexual exploitation.** Thirteen percent admitted having undressed or having sent photos or videos in exchange for money, alcohol, drugs, or gifts.

106. In our country, there is no register of cases of abuse. Most of the competences, or responsibilities, are decentralised. And the lack of data makes it difficult to adopt measures. Countries like the UK are beginning to quantify the issue in order to take action. What is clear, **according to expert reports on the matter, is that we must move towards a system in which foster placement becomes the predominant arrangement.** If there are cases in which continuing with the biological family is no longer possible, the option should be a foster family. Placement in a centre should be the last resort. And if a centre is necessary, it should be as small as possible so that it resembles a family environment. There cannot be centres with more than 30 places. *In Spain, almost half of the 35,000 minors in the foster care system still live in residential centres.*

107. **As stated, the government is aware of the problem. But it has not yet taken any action to correct it.** As a result, situations of sexual abuse of minors, even those under state guardianship, as a pathway into prostitution persist. Therefore, this alarming situation violates **Article 16 (the right to legal, social and economic protection of the family)**. The shortcomings of Spanish law and public policies regarding the protection of the family extend to various areas and situations, as demonstrated by the fact that several collective complaints have been filed – some already resolved with findings of non-conformity by the ECSR, while others are pending (decision on the merits of 24 September 2024, Collective Complaint 206/2022 – Cañada Real case; Collective Complaint 243/2024, UGT v. Spain for violation of the right to housing, etc.). However, it is evident that, given that the aforementioned economic survival strategy is a significant driver of prostitution, neither the laws, nor the policies, nor the existing practices in Spain sufficiently guarantee the minimum living conditions necessary to

protect, in economic, legal and social terms, the family unit of these women – who often lack, apart from income derived from the sale of their bodies, whether permanently or occasionally, access to social benefits and services that help meet basic needs (specific benefits, housing assistance. This situation, as will be seen below, also relates to Article 31 of the Charter – , social and employment guidance services, food security, prevention of energy poverty – which would also affect Article 30 of the Charter, as will be analysed in more detail – , etc.).

108. Moreover, this situation is regarded as inconsistent with the obligations derived from Article 17 of the Charter, insofar as, as the data have shown, girls and young women are the groups most vulnerable to these situations of prostitution. If there are conditions more harmful to the effective exercise of the right of minors and young people to grow up in an environment that favours the full development of their personality and their physical and mental abilities, that environment is, without doubt, prostitution, due to the psychosocial toxicity inherent to it. Although Spain is obliged to adopt – either directly or in co-operation with public and private organisations – all necessary and appropriate measures aimed at protecting minors from violence, exclusion and exploitation, the reality is very different. What can be observed is an almost total absence of such programmes and measures, with the exception of isolated actions carried out by non-profit organisations.

109. Similarly, the Spanish State is obliged to guarantee special protection and assistance for children and young people who are temporarily or permanently deprived of the support of their families. **As we have seen, this situation affects at least 35,000 minors in Spain** and, as noted, they lack this effective care due to serious deficiencies in the design and practical functioning of the system, which is today failing and being called into question.

The doctrine of the ECSR regarding the positive obligation to adopt the necessary measures to effectively ensure that minors and young people can exercise their right to grow up in an environment conducive to the development of their personality and their physical and mental capacities (European Roma Rights Centre & Mental Disability Advocacy Centre v. Czech Republic, Complaint No. 157/2017, decision on the merits of 17 June 2020, §134), has been reiterated more recently in the aforementioned decision on the merits of 24 September 2024 (Complaint No. 206/2022).

110. In the view of the complainant, Spain is not complying with its obligation to adopt all appropriate and necessary measures to guarantee that girls and adolescent girls – taking into account the socioeconomic vulnerability of women engaged in prostitution, especially if they are undocumented migrants, who lack other family or social support networks that may be more present among Spanish nationals – receive the care, assistance, education and training they need under Article 17 of the Charter. The claimant union notes that the girls and young women concerned by this complaint are

particularly impacted by the conditions of precariousness and exploitation inherent in prostitution, preventing or hindering their development at a key moment in terms of their physical, mental, moral, social, cultural, spiritual and personal development.

111. For obvious reasons, these difficulties or obstacles are greater when there another factor of vulnerability is present (intersectionality): the migrant status of women in prostitution. **Hence the violation, in our opinion, of Article 19.1 of the Charter.**

112. The claimant union is aware that this provision is intended to protect the situation of people who immigrate to Spain for work-related reasons and who reside legally in Spain. Legally, prostitutes do not have the status of workers in the contractual-legal sense, due to the nullity of such a contract under settled case law in social matters (although, naturally, as persons, they are holders of fundamental rights according to Spanish constitutional jurisprudence). Moreover, women in prostitution often do not have regularised administrative documentation (which does not prevent them from holding certain rights recognised for all persons). Nonetheless, it is equally true that Article 19.1 of the Charter establishes the obligation for Spain, as a State Party, to take effective measures to prevent misleading propaganda related to immigration (Conclusions XIV-1, 1998, Greece; Centre on Housing Rights and Evictions v. Italy, Collective Complaint No. 58/2009, decision on the merits of 25 June 2011, §§138 – 141). This obligation is accompanied by another requirement: to provide appropriate support throughout the immigration process under Article 19.2 of the Charter (Conclusions IV, 1975, Statement of Interpretation on Article 19 §2).

113. For the fight against misleading propaganda to be effective, **it must include legal and practical measures aimed at** combating racism and discriminatory stereotypes (Conclusion XV-1, 2000, Austria), as well as measures against the exploitation and trafficking of women, including trafficking for sexual exploitation. In the view of the claimant union, these obligations necessarily include effective programmes to prevent the dissemination of false information to nationals – usually women and girls – who leave their country with illusory promises of lawful, recognised employment in Spain (or another European country), but who are later led into prostitution through recruitment, coercion and exploitation networks. It is true that Spain has criminal laws that classify such activities as criminal and that provide for comprehensive care programmes in such cases. However, the reality, as shown, is that these measures are not only legally insufficient and ineffective, but they also reach only a very small number of cases. If this protection deficit exists even for victims of trafficking for sexual exploitation, who are covered by more robust (though still insufficient) legislation, as evidenced by the repeatedly delayed legislative reform already mentioned, it is even more present for women and girls who are victims of prostitution.

6.4. The non-conformity of Spanish legislation and practice on prostitution with Articles 30 (protection against poverty) and 31 (right to housing of an adequate standard)

114. Prostitution takes place within environments and among people marked by multiple forms of vulnerability influenced by various factors, demonstrating its intersectional nature. Among these factors, precariousness and poverty stand out in particular (alongside those already mentioned: sex, gender, national and racial status, irregular migration, age, lack of family and social support networks, past experiences of violence, level of education, age, etc.). **Poverty, therefore, increases women’s risk of falling into prostitution.**

115. Consequently, adopting laws and practical measures capable of correcting these situations of poverty and risk of social exclusion would facilitate either the prevention of entry into prostitution (a proactive approach) or real opportunities to leave such situations. Working on preventing entry into prostitution is essential because, once women have entered prostitution, as explained, leaving becomes more complicated, although it is not impossible. In Spain, several structural elements continue to limit options for leaving due to the growing precariousness of the labour market, which often forces women either to “choose” between poverty or permanent prostitution or to remain trapped in a vicious cycle of precariousness between occasional prostitution and precarious jobs. As sociologist Rosa Cobo states, the limitations of the Spanish labour markets in providing non-precarious jobs, the lack of a system of social benefits adequate to these situations of poverty and social exclusion, and the vast opportunities offered by illegal economies such as prostitution – with an unrestricted market open to those who enter it – turn prostitution into a “circuit of economic survival.”

116. Of course, not every woman living in poverty and carrying family responsibilities, with limited social support, ends up in prostitution. For this to happen, there must be other factors that facilitate this outcome and ultimately turn prostitution into the only means of survival in a situation where there is a lack of economic resources and lack of access to the goods and services necessary to meet basic dignified living needs. However, alongside these factors or drivers of vulnerability that contribute to increasing the risk of prostitution in situations of income deprivation, and that help explain the connection between vulnerable women and prostitution, there is no doubt that the feminisation of poverty and the disproportionate burden of caregiving responsibilities constitute a significant risk factor – one that must be addressed by law and public policy. This requirement is not met in Spain in the coherent, systematic and effective manner required by the Charter, which means that there is also a violation of Article 30 RESC.

117. The Committee points out that living in poverty and social exclusion violates the dignity of human beings (2003 Conclusions, Statement of Interpretation on Article 30; 2003 Conclusions, France). The Committee further notes that, in order to ensure the

effective exercise of the right to protection against poverty and social exclusion, Article 30 requires States Parties to adopt an overall and co-ordinated approach, consisting of an analytical framework (2003 Conclusions, Statement of Interpretation on Article 30, 2003 Conclusions, France), a set of priorities and the corresponding measures to prevent and remove obstacles to accessing social rights (employment, housing, training, education, culture, social and medical care – 2013 Conclusions, Statement of Interpretation on Article 30). Measures must be appropriate in quality and quantity to the nature and extent of poverty and social exclusion in the country concerned (Statement of Interpretation on Article 30, Conclusions 2003, France).

118. The persistence of high levels of prostitution in Spain, together with the confirmed extreme socioeconomic vulnerability of a large proportion of the women involved in it, are factual elements demonstrating that Spain lacks the policies and measures necessary to prevent poverty from becoming a gateway into prostitution or a factor that perpetuates it. Likewise, the absence of such measures is a major factor that either makes it impossible or seriously hinders the existence of reasonable and effective pathways out of prostitution.

119. The ECSR has also emphasised that a State’s failure to collect reliable data and statistics on groups generally recognised as socially excluded or disadvantaged, such as occurs with the persistent invisibility of prostitution, prevents the comprehensive and co-ordinated approach to social protection that these persons deserve. This lack of data therefore constitutes an obstacle to the development of specific policies that concern them (International Federation of Human Rights (FIDH) v. Belgium, Complaint No 75/2011, decision of 18 March 2013, §§ 193, 197).

120. Moreover, the Committee has interpreted the scope of Article 30 in relation to both protection against poverty and protection against social exclusion, **separately or in conjunction with other related provisions of the Charter** (2013 Conclusions, Statement of Interpretation on Article 30; decision on the merits of 11 September 2024, cited above, paras 198 and 199). In matters of social exclusion, States have the positive obligation to promote citizen participation in order to overcome obstacles arising from the lack of representation of certain vulnerable groups in various areas of social, economic, and cultural life, so that these groups perceive that real incentives or opportunities exist to escape marginalisation and to participate actively in countering their lack of representation (Conclusions 2013, Statement of Interpretation on Article 30 citing Centre on Housing Rights and Evictions (COHRE) v. Italy, Complaint No. 58/2009, op. cit., §107). It is evident that **women in situations of prostitution who lack programmes enabling an effective exit – with guarantees of real opportunities for dignified employment and/or adequate social income – are deprived of the right recognised in Article 30 RESC**, both on its own and in relation to other rights already examined in the previous sections, and those that will be analysed below.

121. Specifically, the Committee has highlighted the close link between the effectiveness of the right recognised in Article 30 of the Charter and the enjoyment of the rights recognised in other provisions, such as the social rights to health protection (Article 11), to the legal, social and economic protection of the family (Article 16), of children and young people (Article 17 – **and also Article 7** of the Charter), of migrants (Article 19), as well as the rights to equal opportunities on the grounds of sex (Articles 20 and 21), which will be addressed in the next section, **and the right to housing** (Article 31) (2013 Conclusions, Statement of Interpretation on Article 30).

122. With regard to this latter social right – decent housing under Article 31 RESC – the claimant union seeks to persuade the Committee of the legal and social importance of this right for the proper regulation and comprehensive protection of victims of prostitution, the vast majority of whom are women, with a high prevalence of young and migrant women, who face particular socioeconomic vulnerability, also in relation to access to housing. The interpretation of the right of access to decent and affordable housing – including the duty of public authorities in a State Party to provide serious and effective measures and opportunities for access to social housing – has allowed the ECSR to reaffirm its doctrine on the indivisibility of the Charter’s rights. This is due to the special connection between these rights and the conditions required for respect of the inherent dignity of every human being, in conditions of equality and irrespective of individual or group socioeconomic circumstances. This is clearly reflected in the *decision on the merits of 26 January 2021, Complaint No. 173/2018 (International Commission of Jurists and European Council of Refugees and Exiles v Greece)*. In that decision on the merits, the Committee reiterates its legal doctrine according to which:

“...the right to shelter is closely connected to the right to life and is crucial for the respect of every person’s human dignity” (para. 119, p. 62).

123. On the one hand, the high cost of access to housing and the shortage of social housing (a crisis denounced in the aforementioned Collective Complaint 243/24, UGT v. Spain, pending) make it very difficult for many people in Spain to enjoy the right set out in Article 31 RESC. This has an even more harmful effect on the most vulnerable groups. The fact that a significant proportion of the women engaged in prostitution are poor, migrant and in an irregular administrative situation further aggravates the difficulty of accessing decent housing. On the other hand, these difficulties in accessing housing – for themselves and for the people who depend on them – are factors that sometimes lead women to resort to prostitution. The media has reported on the **growing practice of exchanging a room for sex, which shows how [prohibitive rents are fuelling sexual exploitation](#)**. *“I’m offering a free room to a woman in exchange for spending the night together. If interested, please send physical and contact details.”* This is one of the many advertisements one finds on internet platforms.

124. Police reports confirm that cases in which a woman obtains housing in exchange for sexual relations mostly affect undocumented migrant women, underscoring their greater socioeconomic and personal vulnerability due to the concurrence of these three intersecting factors. Apart from any potential criminal issues (an agreement between adults prevents this from being a crime, although if the exchange is mediated by threats or coercion it would indeed constitute a criminal offence), at the social level this new form of treating women’s bodies as payment currency for male offers – in this case, for housing – **reveals yet another form of vulnerability: housing insecurity. This affects groups at risk of falling into – and remaining in – prostitution, for whom neither Spanish laws nor Spanish housing policies provide an effective response.**

125. The “special sensitivity” required of laws and public policies relating to prostitution with regard to the right to housing manifests itself in other particularly relevant ways that must be addressed to prevent counterproductive effects on the enjoyment of this right under Article 31 RESC. Indeed, as became evident during the intense debate in the ECtHR judgment of 25 July 2024, through the interventions of the various NGOs working in the field of prostitution, an abolitionist legal framework that not only criminalises the purchase of sex (the clients) but also extends the offence of pimping to those who offer apartments that facilitate the practice of prostitution (*tercería locativa* rentals), as advocated by the claimant union, could have counterproductive effects on the living conditions of women engaged in prostitution, including their access to housing. Property owners’ fear of being criminalised could make prostitution in more private and protected spaces more difficult, pushing women back into street prostitution.

126. The ECtHR does not share this criticism, at least not in a general and unconditional manner, and therefore upholds the French abolitionist model under discussion (the Nordic model). However, it does warn – something particularly relevant to this collective complaint, in the view of the claimant – of the need for the criminalisation of the purchase of sexual services always to be accompanied by adequate public policies that ensure that women who decide to leave prostitution are not deprived of access to basic services necessary for a decent existence (employment opportunities, income guarantees, assistance for access to housing, etc.). Such policies guaranteeing access to social housing and other requirements for a decent existence would also neutralise the criticism currently voiced in Spain by certain organisations representing the prostitution sector, which oppose the Government’s intention – announced in the forthcoming law on the criminalisation of prostitution – to prohibit the abovementioned practice of *tercería locativa* rentals. The Government sought to introduce such a prohibition in Organic Law 10/2022 (LOGILS), but ultimately abandoned the effort, precisely due to strong pressure from the sector and the risk of these counterproductive effects.

127. However, in the view of the claimant union, the absence of adequate prohibition of such practices that profit from the buying and selling of sexual acts – which, as demonstrated with data, underlies the enormous proliferation of clubs, apartments and venues for the practice of prostitution in Spain – reinforces the conclusion that Spanish law and practice in this area are not in conformity with the Charter, as we have been explaining. At the same time, this confirms our proposal that any more effective criminalisation of the purchase or rental of sexual acts from women by men – without loopholes or escape routes that promote prostitution – must always be accompanied by a comprehensive policy, combining civil guarantees (prohibition and sanction) with social guarantees (e.g., real employment opportunities, housing assistance, adequate social income guarantees, etc.). To ensure that women do not face additional obstacles to leaving prostitution, such as the deterrent effect on housing offers caused by landlords’ fear of being sanctioned, these measures must be compensated with guarantees of access to social housing.

128. It is also worth noting that this requirement to guarantee access to housing for vulnerable population groups is closely related to Articles 16 and 27 of the Charter, given that many of the women in situations of prostitution have childcare responsibilities (and not only for dependent relatives in the ascending line). Relevant in this regard is the established case law, with broader application, in the decision on the merits of 26 January 2021, 173/2018

129. Consequently, regardless of the regulatory model ultimately chosen as the most appropriate for prostitution (the claimant union considers the abolitionist model to be most consistent with the relevant international law and with the Charter system, and this will be discussed again below), legislation must always be accompanied by a prevailing and adequate human rights and social safeguards approach.

This follows from the aforementioned comprehensive and co-ordinated approach required by the ECSR in relation to Article 30 RESC, as noted above (decision on the merits of the case of 19 October 2009 in ERRC v. France, Complaint No. 51/2008). A human-rights-based approach to persons who are victims of prostitution – most of them migrant women in an irregular administrative situation, though not exclusively, as other factors of female vulnerability exist – is once again absent in Spain, and therefore the non-conformity with the Charter system is evident.

6.5. Non-conformity with the right to equal employment opportunities without discrimination on the grounds of sex (Article 20) and for persons with family responsibilities (Article 27)

130. Prostitution is, as has been demonstrated, in most cases the only economic survival strategy available to women who lack sufficient resources to meet their own

material living needs and those of their families. Therefore, there is broad consensus that the best alternative for overcoming this situation of intersectional socioeconomic and personal vulnerability is to provide real, effective employment services and opportunities under the international standard of decent work. This would ensure – or at least facilitate – that women can access, through their right to a sufficient wage (as established in Article 4 of the Charter in conjunction with Article 1 thereof), the goods and services necessary for social integration on equal terms with others in the society or community in which they live.

131. From this perspective, it is evident that the right to equal opportunities and equal treatment in access to employment, without discrimination based on sex or gender, as recognised in **Article 20 of the Charter**, is affected. This relevance stems from two facts: first, that the vast majority of people in situations of prostitution are women (a subjective criterion), and second, that prostitution is used as an economic survival strategy by vulnerable women who have no alternatives for decent and freely chosen employment under Article 1§2 of the Charter (an objective criterion).

132. In this respect, it is necessary to highlight the doctrine of the ECSR, according to which Article 20 is *lex specialis* in relation to Article 1 § 2 of the Charter (Conclusions, Statement of Interpretation of 2002 on Article 20), commented on above and in respect of which Spain’s non-conformity has already been established. This means that, in practice, when a State such as Spain has accepted Article 20, gender-related issues are primarily addressed under this provision, without prejudice to the important role of **Article E**, which will be discussed later. It is important to clarify that this does not imply that prostitution is being equated with valid employment, as though it were work performed under a lawful employment contract – a legalisation model that this party considers contrary to the Charter.

This provision is invoked here, and considered violated by the Spanish State in this case, because prostitution creates a system of obstacles that prevents women from accessing alternative employment on equal terms with men. Men are not the ones driven into prostitution; on the contrary, they create the conditions for a market of female prostitution that reduces women to mere economic commodities and stigmatises them into a subcultural and degrading status, exploiting the extreme socioeconomic and personal vulnerability that frequently accompanies such situations (poverty, illegal immigration, etc.).

133. This substantive interpretation fits particularly well with RESC doctrine, according to which Article 20 of the Revised European Social Charter requires States not only to enact laws but also to adopt effective measures that achieve the result of equality in access to all opportunities offered by society for obtaining adequate and genuinely freely chosen employment, without discrimination based on sex or gender (Conclusions XIII-3, 1995, Statement of Interpretation on Article 1 of the Additional

Protocol, Conclusions XV-2, 2001, Conclusions XVII-2, 2005, Netherlands, Article 1 Additional Protocol, Conclusions XIII-3 1995). The socioeconomic conditions of the productive and political-cultural system that drive women into the prostitution market significantly hinder their equal access to alternative employment opportunities. Hence the need for a specific plan to ensure that women forced into prostitution as an economic survival strategy, due to the absence of other means of subsistence, can, in accordance with the principle of equality, find effective conditions for accessing employment through services and measures that provide real opportunities beyond mere formal legal provisions (Conclusions XVII-2, Netherlands, Antilles and Aruba, Article 1 of the Additional Protocol).

134. As we have had ample opportunity to demonstrate, in our view, in the section setting out the factual grounds of this collective complaint, one of the factors that most strongly pushes women in situations of vulnerability, especially irregular immigrants, into prostitution and keeps them there is the compulsion to support family members, children and/or parents. We therefore consider that Article 27 of the Charter is also being violated by Spain.

135. As is well known, **Article 27(1) of the Charter** aims to give persons with family responsibilities the same opportunities to find, maintain or regain employment, given that such persons may encounter difficulties in the labour market due to those responsibilities. To that end, all types of accessible services that make it possible to address these responsibilities must be included (e.g. Conclusions 2005, Statement of Interpretation on Article 27, §10; see, for example, Estonia), and the assumption of these responsibilities – usually by women in today’s societies, certainly in Spain (80 percent of care work falls on women) – must not result in a compulsion or significant pressure that makes access to employment difficult and, instead, leads to less rewarding, abusive or precarious alternatives such as prostitution. In that regard, vulnerability factors such as single parenthood (families in which several persons, minors and/or ascendants, depend solely on one woman), the absence of support for caregiving from family or social networks, and poverty, among others, will significantly contribute, in the absence of adequate guarantees of access to income and services enabling such care, to seeking “shortcuts,” such as prostitution.

6.6. The non-conformity of Spanish legislation and practice on prostitution with Article E (discrimination based on sex and intersectional discrimination) of the Charter in relation to, in particular, its Articles 1§2, 3 and 11, 16, 20, 30 and 31

136. It is settled case law of the Committee to interpret the rights and freedoms of the Charter – the true Social Constitution of Europe – as a living instrument, in light of present-day conditions, international instruments and the imperatives arising from new issues and situations (Marangopoulos Foundation for Human Rights v. Greece, Complaint No. 30/2005, decision on the merits of 6 December 2006, §194; ILGA v. Czech

Republic, decision on the merits of 15 May 2018, §75). Underlining these interpretative criteria is relevant, in the view of the complainant, to this matter, since interpreting the phenomenon of prostitution in light of the Charter’s system of rights requires the Committee to acknowledge the actual reality of this practice as a form of gender-based violence that hinders, if not outright deprives women (and girls) of the real or effective enjoyment of human rights inherent in dignity. This is consistent with the understanding under international law, particularly the Convention and the doctrine of the CEDAW Committee, whose standards of social protection in this regard are even higher than those of the ECHR and the case law of the ECtHR. It therefore has a negative impact on and violates Article E of the Charter.

137. The claimant trade union is aware that the Committee is of the view that **Article E performs a normative standard-setting function analogous to that of Article 14** of the European Convention on Human Rights (ECHR). This is a very old doctrine (1968), which today ought to be reconsidered, according to which Article E has no independent existence and has to be combined with other substantive provisions of the Charter (SAGES v. France, Complaint No. 26/2004, decision on the merits of 15 June 2005, §34; CFDT v. France, Complaint No. 50/2008, decision on the merits of 9 September 2009, §§37 – 39).

138. **Article E** guarantees the enjoyment of the rights set forth in the Charter, without discrimination, based, in particular – and relevant here – on **sex**, in addition to grounds pertinent to this issue, such as “**national extraction or social origin**”, race, ethnicity or association with a national minority, “**birth**” or “**other status**”. The Committee adds that a measure that complies with the substantive provision at issue may nonetheless infringe Article E, together with the contested provision, due to its discriminatory character.

Among other particularly close connections, the Committee’s case law has established links between **Article E and Articles 16, 30 and 31** of the Charter, which have been analysed here and form the basis of our position that the Spanish situation is in non-conformity with the imperatives of the Charter requiring effective protection against prostitution (*European Roma Rights Centre v Greece*, Complaint 15/2003, decision on the merits, 8 December 2004, para. 24 and 51; *ERRC v. France*, Complaint No. 51/2008, decision on the merits of 19 October 2009, § 89).

139. It should also be noted that the Committee has recognised the existence, within the framework of Article E, of positive obligations on States Parties to guarantee the effective exercise of economic and social rights in a non-discriminatory manner, including on the basis of sex, as is the case with the right to health protection through non-discriminatory sexual and reproductive education. These obligations derive from the duty of States to prevent situations of poverty and social exclusion from being perpetuated or reinforced, as such situations would be contrary to human dignity

(Centre on Housing Rights and Removals (COHRE) v. Italy, Complaint No. 58/2009, decision on the merits of 25 June 2010, with reference to the ECtHR judgment in Folgerø and Others v. Norway, 2007). This doctrine is upheld, above all, in relation to the protection of groups characterised by a situation of particular vulnerability, in order to prevent and eradicate stereotypes and forms of stigmatisation that contribute to the social exclusion of marginalised groups or other forms of social prejudice that have the effect of degrading their dignity.

140. This doctrine must be applied *mutatis mutandis* to the situation of women in prostitution, especially considering the existence of factors of intersectional vulnerability (being female, an immigrant, often in an irregular situation, with family responsibilities, young, of poor origin, etc.). As previously reasoned above, the Spanish situation regarding prostitution is incompatible with Articles 3 and 11 of the Charter (right to health). This doctrine may also be extended to the right to protection against poverty and social exclusion under Article 30 RESC, as well as to the related right to protection of the family (Article 16).

141. The infringement established here concerns these provisions and Article E in relation to them. Prostitution constitutes a form of discrimination on the grounds of gender and of multiple or intersectional discrimination which, by degrading human dignity, particularly that of women facing various factors of personal and socioeconomic vulnerability (youth, nationality, irregular status, poverty), has a negative impact on the enjoyment or effective exercise of these social rights protected by the Charter.

Hence the need for Spain to adopt all legal measures and practical actions to combat situations of stigmatisation, discrimination and the degradation of the living conditions of women in prostitution. Such protection does not occur in Spain; on the contrary, institutional and socioeconomic factors perpetuate these conditions.

The ECSR must acknowledge the status of victim of the tens of thousands of women, girls and persons belonging to sexual minorities who suffer prostitution on a daily basis in Spain, one of the main destinations of “global sex tourism.” The vast majority of women in prostitution are irregular immigrants, and the laws and public policies, as previously reported, do not offer adequate pathways for regularising their stay in Spain, nor real opportunities of alternative employment to escape the trap of prostitution. These legislative and practical limitations strengthen the exploitation of the prostitution of others and organised networks, thereby further feeding the already extreme vulnerability of prostituted women (Brufao Curiel, Pedro. *Prostitución y políticas públicas: entre la reglamentación, la legalización y la abolición* [‘Prostitution and public policies: between regulation, legalisation and abolition’], Fundación Alternativas. Progress Studies, n. 33, 2008⁸)

⁸ <https://fundacionalternativas.org/wp-content/uploads/2022/07/xmlimport-jPZHqj.pdf>

142. According to the best available scientific evidence, the most current and innovative international norms – cited below – and the actual dynamics of prostitution relationships, understood as the purchase of sex for a price in which the seller is almost always a woman and the buyer is almost always a man, prostitution in Spain functions as a **genuine, deeply rooted sociocultural institution that reproduces the traditional power relationship of dominance and subordination of women**, as well as the stereotypes associated with sexist femininity (availability, pleasantness, being an object of desire, beauty, rivalry among women) and dominant masculinity (control, sexual instinct, desiring subject, aggressiveness, the power to choose with whom one engages in sexual relations). Hence, there is a confluence of different forms of violence in which gender plays an essential role, along with other typical criteria of discrimination, such as race/ethnicity and class, as also discussed below. In this sense, prostitution reflects a system of discrimination on grounds of sex and gender, which includes the most varied situations, including those of transgender women who have been forced into prostitution due to the discrimination in access to employment suffered by a significant part of this group solely because they are transgender.

143. It is appropriate to bring before the Committee the evolving legal reasoning that underpins acceptance of the concept of multiple or intersectional discrimination, reflected internationally in ILO Convention No. 190 with respect to all forms of violence at work and, more generally, in the case law of the ECtHR. Thus, in its judgment of 25 July 2012, Application No. 47159/08, *B.S.C. v. Spain*, §71, **in relation to Article 14 ECHR (equivalent to Article E of the Charter)**, although brief but illustrative, the ECtHR clarifies that discrimination was based on sex and social origin, requiring an analysis of the facts and legal basis within this overall context; otherwise, the assessment would be incomplete and partial.

Specifically, in that case, the Court referred to the *“applicant’s particularly vulnerability inherent in her position as an African woman working as a prostitute.”*

In sum, the proper protection of the human dignity of women in prostitution, which underlies the prohibition of discrimination set out in Article E in relation to the various provisions of the Charter analysed here, means that account must be taken not only of the fact that, in these cases, multiple grounds of discrimination are present (sex, social origin, nationality, age, administrative status, etc.), but also that, in most situations of prostitution, there is a genuine situation of “multiple or intersectional discrimination.” This exacerbates the gravity of the situation in light of the Charter, as it fundamentally affects persons who are especially vulnerable (persons in prostitution being mostly women, of migrant origin, in an irregular situation and/or in poverty).

144. The collective complaint calls on the Committee to deepen its analysis of these concepts of sex discrimination, the gender perspective and multiple discrimination, as they are particularly relevant to an issue as important and as complex as prostitution.

The introduction of new legal categories also requires that they be accompanied by effective legal consequences, in line with the Committee’s approach of giving practical effect to the recognition of rights based on their effectiveness and through practical guarantees. It is settled case law of the Committee to state that the principal *raison d’être* of the world’s leading Social Rights Treaty, the Charter, was to complement the protection afforded by the ECHR in the social field by raising the level of guarantees. In this regard, the Committee has already had some opportunity to make progress in identifying and correcting gender gaps, including in the socio-occupational sphere (University Women of Europe, Collective Complaints Nos. 124-138/2016).

145. The Committee thus has an opportunity to move forward in defining the concept and consequences of innovative and dynamic notions, such as the gender factor, or gender perspective, in analysing equality of outcomes among women and men and the prohibition of discrimination, both in themselves and in their combination with multiple or intersectional sex discrimination – an essential element for assessing the institution of prostitution in the light of the Charter. Of further interest are the contributions, in addition to those of the ECtHR, of specialised agencies such as the European Union Agency for Fundamental Rights. It defines multiple or intersectional discrimination as follows:

“The concept recognises the fact that an individual can be discriminated against on more than one ground in any given situation or time. In other words, a person does not only have a minority background, but also a certain age and gender that might add to her or his vulnerability to discrimination.”

The document continues as follows, which is particularly relevant to the subject matter of our collective complaint:

“For example, a woman with an ethnic minority background might be affected by discrimination in a different way to a man with the same minority background. Other personal characteristics or circumstances, such as disability or educational background, also impact on one’s exposure to and experience of discrimination. It is the adding up and/or combination of different grounds of discrimination that form the substance of what is commonly understood as ‘multiple discrimination’, and which has been variously addressed by different authors and academic disciplines as ‘additive discrimination’ or ‘compound discrimination’, and as ‘intersectional discrimination’ There has been progressive acknowledgement of the role that multiple discrimination can play in people’s lives by disciplines such as gender studies, and in some branches of socio-legal research. In contrast, the law has been slow to recognise and respond to the concept of multiple discrimination in practice. The relatively few cases addressing discrimination on more than one ground is evidence of the law lagging behind in this area, and of the limitations imposed on addressing multiple discrimination through the application of the ‘comparator’ approach in discrimination cases in a number of jurisdictions,” (FRA: Data

in Focus Report Multiple Discrimination European Union Minorities and Discrimination Survey No. 5).

146. A particularly clear confirmation of this understanding of **prostitution as a form of gender-based violence and as a source of discrimination on the grounds of sex and intersectionality (discrimination on multiple grounds)** is found in the aforementioned Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and in CEDAW Committee General Recommendation No. 38 on trafficking in women and girls in the context of global migration. This international instrument understands discrimination as any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women of human rights and fundamental freedoms in any field (economic, social, cultural, civil, etc.). This is a form of discrimination that is continuously masked, and that places women in a situation of exclusion and heightened vulnerability compared with men, particularly in the poorest regions of the world, from which many of the women in prostitution in more developed countries, such as Spain, often originate. Its discriminatory and intersectional nature (women, often minors, almost always poor and migrant) explains why, in situations of poverty or exclusion, ***prostitution is presented as a social option available to women, but not to men, thereby opening deep gender-based inequalities in access to economic, social and cultural rights.***

147. In addition to the gender perspective, the unavoidable intersectional analysis required in this matter enables a more accurate identification of the multiple difficulties faced by most women engaged in prostitution in Spain. They bring together several strands of oppression, generating very complex situations of discrimination.

For example, a large majority of women engaged in prostitution in Spain are migrants, many of them racialised and/or in an irregular administrative situation. The situation of transgender women is also particularly serious, as for many of them prostitution becomes the only means of subsistence, given the lack of employment opportunities and the absence of family support.

148. This is also the position of the European Parliament, which expresses a higher standard of guarantees in a context that is more innovative both scientifically and socially, grounded in solid legal foundations in international human rights law, as noted above. Consequently, from a strictly human-rights protection approach, which is required in the context of the Charter, and from the perspective of ensuring the effective protection of the tens of thousands of women in situations of socioeconomic and personal vulnerability, prostitution generates intersectional sex discrimination contrary to the various provisions of the Charter analysed in this collective complaint, separately and in conjunction with Article E.

149. In view of this reality, and despite promises to acknowledge and address it in the future, Spanish law and practice not only fail to correct the situation but actually accentuate it, due to the absence of adequate laws and measures for protection and reintegration as alternatives to prostitution and to the factors that degrade the dignity and living conditions of these women. Hence the need, even the urgency, given the very prolonged passivity of the Spanish State, for a finding of non-conformity by the ECSR, in the terms set out and sought in this collective complaint.

7. There is a strict and urgent need for the Committee to issue a declaration of non-conformity in light of the persistent legal limbo caused by the Spanish model, the high (male) demand for prostitution (of women) and the complete lack of any possibility of conducting conventionality reviews in this field

150. The deficits in legal regulation and in social protection for victims of prostitution (women in situations of particular vulnerability who are driven to it as their only viable survival strategy) have persisted for years in Spain, the country with the highest consumption rates in Europe. Political institutions have been promising far-reaching abolitionist reforms for a long time. Nearly 20 years ago, in the Report of the Working Group on Prostitution, approved by the Joint Committee on Women’s Rights and Equal Opportunities of the Cortes Generales [Spanish Parliament] on 13 March 2007, it was observed that, given the increase in prostitution, due to the undifferentiated legal framework and the socio-cultural normalisation of prostitution, which disguises as “sexual liberalism” and “social tolerance” what are in fact merely “degrading practices” violating the dignity of women (p. 40), decisive action was required to significantly reduce demand and to improve the living conditions of women in prostitution.

One point worth highlighting is that parliamentarians stated the following:

*“for the purposes of State intervention, the distinction between voluntary and forced prostitution is irrelevant, as it overlooks the fact that the practice of prostitution violates the dignity of the persons who engage in it. **There has been practically unanimous agreement on the need to develop prevention policies to tackle the root causes by addressing all elements of the prostitution system,** and that send a clear message to society that prostitution is a form of gender-based violence and a practice that violates human rights”* (pp. 40-42).

151. Magnificent words, and sound institutional and legal policy guidance on prostitution (in protection of women in prostitution and girls – the majority), for the reasons analysed below, de facto and de jure. However, 18 years later, none of this has been fulfilled. Now, the progressive coalition government once again promises a comparable legislative and public-policy intervention, placing emphasis both on the effective reduction of demand – addressing the purchase of sex in order to discourage it (including through prohibitions and sanctions) – and on the sale, through the adoption of social protection plans and measures for women victims. However, this remains only

a vague promise for the future, with no certainty due to political difficulties, and, in any case, the proposed package of measures is manifestly insufficient in light of the Charter's system of rights and guarantees.

152. Consequently, a condemnatory ruling by the Committee is not only necessary but urgent, so that the Spanish State finally adopts the measures it is required to take in order to remedy this highly deficient situation and lack of social protection. It is essential to intervene decisively and clearly in relation to the demand for prostitution, through laws that effectively discourage and impose dissuasive sanctions on procurers (including third-party profiteers, providing *tercería locativa* rentals) and on clients, each at their respective level of responsibility, since it is demand that gives meaning to the former. Equally – and as a priority – intervention is required with regard to the “supply,” that is, the women who are victims, through policies, programmes and sufficient resources and budgets to ensure their effective protection, which is currently non-existent or only very partial, and in any case ineffective.

153. There is no real possibility that this correction of the Spanish State's failures in the regulation and protection (of women, girls, and young people) against prostitution under the Charter might come through another avenue, such as a “conventionality review” (review of compliance with international conventions). In this area, Spain maintains an ambiguous and undefined position, making it absolutely unthinkable that a Spanish court would resort to the mandatory review of conventionality, i.e. compliance, in order to reverse the current deficient state of guarantees and protection. In any case, judicial intervention would be ineffective, insofar as what is required are effective legislative measures (in criminal law, social legislation and immigration law) and, above all, public policies providing social and employment services and benefits that offer viable alternatives to prostitution as a means of economic survival for women in situations of particular vulnerability (the majority being migrant women).

154. The claimant is convinced that the model of legal treatment and practical, rights-protective action that is most relevant to the Charter system as a whole, and to the social rights and guarantees that, for the factual and legal reasons set out below, are considered to have been violated by the Spanish State, is the **abolitionist model, complemented by a comprehensive approach based on human social rights and a gender perspective**, for the global and effective protection of women who are victims of prostitution. In this way, priority would be given to protecting the most vulnerable groups, or those at clear risk of becoming so, the vast majority of whom are immigrant women and/or women living in poverty.

155. This threefold legal-social approach (abolitionist: discouraging demand; protecting dignity and the social rights tied to it under the Charter; and integrating a gender perspective) is the only one capable of transforming the sexist power relationships inherent in all prostitution relationships, recognising that the imbalances

and marginalisation surrounding them prevent people engaged in prostitution, who are impoverished, from exercising their rights. Hence the need for laws and policies that centrally address vulnerable groups, or those at risk, by transforming the unjust distribution of power and correcting the inequalities and discriminatory practices that are common in this area. The required gender perspective (the abovementioned doctrine of the CEDAW Committee) demands an analysis of the social context of prostitution, exposing the socioeconomic sex-gender stereotypes played out in the division of roles between women (those who are forced or compelled by vulnerability to sell or rent their bodies) and men (those who overwhelmingly purchase, by virtue of their dominant power). Thus emerge the inequity, discrimination and specific power imbalances suffered by women in general (economic, family-related, work-related, etc.), which are even more pronounced in prostitution, confirming that it constitutes a form of gender-based violence in which other forms of violence converge, as explained below.

156. This claimant party is also aware that in Europe there is an intense debate regarding the most appropriate model for regulating prostitution, without any agreement having been reached, as reflected in the intense debate in the aforementioned ECtHR judgment of 25 July 2024 (which upheld the Nordic abolitionist model in its French version, rejecting the notion that it produces more harmful effects on prostitutes than those that already exist and are acknowledged). Even international organisations, both public and civil society, disagree on the choice between abolitionism and legalisation, while in any case always ruling out the criminalisation of women in prostitution, although some European countries do in fact have provisions in that respect.

157. It is worth noting, however, that there is a growing development of the abolitionist model, the so-called Nordic model (Sweden, Norway, Ireland, France, etc.), as illustrated by comparative law analysis, which is always pertinent in matters of such significance and with institutional, social and cultural implications. Although it does not eliminate prostitution, the assessment of its results clearly shows a reduction in demand and better protection for victims, that is to say women and girls.

158. It is observed that the Committee has not yet established a specific position on this matter in its case law, making this collective complaint a good opportunity to take such a step, and urging it to do so on the basis of the detailed factual and legal reasons set out below. Such a decision should reflect the higher level of social protection afforded by the Charter and by the Committee's case law than that of the ECHR and the ECtHR, given that the European Social Charter offers greater guarantees regarding the human social rights of particularly vulnerable groups (women, girls, young people; most of them immigrant women, living in poverty, etc.). That is what is at stake here – not questions of purely ethical or moral nature, which fall outside the scope of this complaint.

159. Neither the ECHR nor the ECtHR were conceived with the task of effectively promoting social justice, but rather civil justice, although it is now acknowledged that there has been very significant progress in this regard. Therefore, the broader margin of appreciation granted to States by the ECtHR in choosing models and policies regarding prostitution cannot be extended to the same degree when the Charter and the doctrine of the ECSR are at stake, due to the higher standard of social protection arising from the rights and guarantees of the Charter, as analysed here. Consequently, while it is true that the case law of the Strasbourg Court has addressed important cases involving the social protection of persons in situations of vulnerability (e.g. foreign women subjected to modern or domestic slavery: ECtHR, *Siliadin v. France*, 26 July 2005; forced prostitution: *S. M. v. Croatia*, 25 June 2020; situations of young migrants who are victims of forced labour and human trafficking: ECtHR, *Chowdury and Others v. Greece*, 30 March 2017), the assessment of Spanish legislation and practice on prostitution in light of the Charter by the ECSR entails a more collective and social dimension, requiring a stronger commitment to legal guarantees. In this regard, it is noteworthy that, when the ECtHR has had to address a collective complaint and evaluate a national legal model, the French abolitionist model, it has fully upheld its validity, making it a necessary condition that it be accompanied by appropriate social policies to protect the victim status of women in prostitution who wish to leave it.

160. The claimant trade union also considers it appropriate to bring to the Committee's attention that it is not uncommon for there to be divergences between the rulings of the ECtHR and those of the ECSR, such that situations deemed legitimate by the ECtHR are considered non-compliant by the ECSR, by virtue of the latter's higher normative standard of social protection, particularly where vulnerable groups are concerned. A relevant case for this complaint is the ECtHR judgment *Ghailan and Others v. Spain* of 23 March 2021, which concluded that there had been no violation of the Convention provisions in relation to the forced eviction and demolition of the illegally occupied home of a vulnerable family in Cañada Real, Madrid, and in which the Strasbourg Court rejected the applicability of the solution reached in ECtHR judgement *Winterstein and Others v. France*.

By contrast, as already noted, when the ECSR was called upon to assess a systemic problem in Cañada Real regarding the disregard of social rights, it issued a Decision finding no fewer than ten violations (decision on the merits of 11 September 2024). The same reasoning may be applied to the ECtHR case *H.A. and Others v. Greece*, Application No. 19951/16, judgment of 28 February 2019 (case of *Sh.D. and others v. Greece et al*). In that case, the Court did not conclude that the living conditions in the reception centre (near Thessaloniki) amounted to inhuman or degrading treatment. By contrast, the Committee accepted the reasoning of the European Trade Union Confederation (ETUC) that the Charter offers a much higher level of protection in several respects than the ECHR (in that case, Article 3), and concluded, within the context of International

Humanitarian Social Law, that there had been a violation of Articles 7, 17 and 31 of the Charter.

161. In sum, in this matter, the claimant trade union considers that, although it is particularly relevant to draw on the synergies between the ECtHR and the ECSR, as well as between the latter and international instruments that seek greater protection against prostitution, such synergies should serve to advance protection upwards, favouring the solution most conducive to the respect for human rights in accordance with the *pro personae* principle. In that spirit, the ECSR, without prejudice to the need, not merely the advisability, of naturally referring to the ECtHR's case law in this area, must express its own position, in order to align it with the system of social rights that it is responsible for guaranteeing. Accordingly, from this perspective, we understand that the spirit of the Revised European Social Charter is to exclude prostitution from the social practices of States that have ratified the European Social Charter. *The greater self-restraint* exercised by the ECtHR should not be mirrored by the ECSR, which also recognises a margin of appreciation, but one that is more limited.

162. The collective complaint presented here should be, for the factual and legal reasons set out in detail below, an excellent legal-institutional opportunity to promote an evolutionary interpretation, strengthening the vision of the Charter as a "living" instrument through the case law of the ECSR, itself encouraged by more active participation of trade union bodies and non-governmental organisations (social and civil dialogue), thereby giving real effect to its configuration as a charter of socio-cultural democracy, just as the ECHR fosters a charter of civic-political democracy.

163. The trade union submitting this collective complaint considers it necessary to emphasise to the ECSR, always with due respect for its impartiality, the great significance of its decision as the highest body responsible for ensuring compliance with the Charter in this matter. In Spain, due to the absence of clear legislation and practice regarding prostitution already demonstrated, this form of violence against women, especially those in highly vulnerable situations, continues to grow, perpetuating the marginalisation of this group and their deprivation of access to social rights such as employment, housing, adequate social income, etc.

Hence, as has been argued, the view that Spanish legislation and practice in this field are inconsistent with Articles 1§2, 3, 11 and 26, both in themselves and in relation to Articles 16, 17, 30, and 31 RESC, as well as with Article E. This is why the decision on the merits finding non-conformity that is respectfully requested from the ECSR, in the exercise of its function of guaranteeing effective compliance with the commitments that Spain has undertaken with legal force and normative binding effect, is of great relevance not only for Spain, but for all of Europe.

164. The claimant trade union is aware that a ruling with jurisdictional authority such as the one sought from the ECSR cannot replace or substitute any legislative action

aimed at effectively reducing demand or implementing policies to protect victims of prostitution. However, it considers that an imperative of human social rights – such as that arising from protection against prostitution – cannot be reduced to mere political will, without due respect for international legal commitments. A decision on the merits finding non-conformity will be key in this regard.

8. Findings and claims

165. Prostitution is a form of gender-based violence and a systemic violation of the social rights of the women who engage in it, and it must begin its path towards abolition in Spain, the European country with the highest demand. This is the view already taken by a majority of the population (60%, according to the Centre for Sociological Research Survey), although the political and social debate remains open. But Spanish governments and Parliament have for years been announcing the fulfilment of that promise, without success. For this reason, this collective complaint calls upon the ECSR, in the exercise of its function of guaranteeing compliance, to serve as the essential legal-social pillar needed to make abolition a reality and to promote it. Without abolition, there is no dignity for the victims and no effective liberation, two essential components of the Charter system in its role of providing social complementarity to the ECHR. Yet without the guarantee of effective social rights for women victims of prostitution, abolition (i.e. reducing demand through punitive and sanctioning measures) will also fail to constitute a solution that ensures a life of dignity for vulnerable women who are victims of this form of gender-based violence and multiple discrimination.

166. In light of the compelling statistical evidence presented and the legal arguments put forward, the trade union considers it established that Spain currently finds itself in a situation in which its laws and policies on prostitution are inadequate, furthermore constituting a significant source of risk of trafficking for sexual exploitation, according to official data. This systemic contradiction between Spanish law and practice and the imperatives of the Charter can only be properly resolved, coherently and effectively, through a system of guarantees ensuring both the reduction of demand for prostitution and the protection of the women who engage in it, facilitating their exit through alternatives in employment, housing, social replacement income, etc.

167. In order to restore Spain's duty of compliance, **the UGT requests that the ECSR:**

*A) Accept this **collective complaint** and declare it admissible, so that it may proceed in accordance with the procedure laid down in the Protocol of 1995 and reach a decision on the merits;*

B) Declare that Spanish legislation and practice on prostitution and trafficking for sexual exploitation are not in conformity with Articles 1§2, 3, 7, 11 and 26 of the Charter, separately, and in conjunction with Articles 9, 10, 16, 17, 19, 20, 27, 30 and 31, as well

as in relation to Article E, **due to the lack of protection afforded to victims**, in particular the various groups of women in situations of socio-economic and personal vulnerability (due to age, nationality, poverty, etc.).

C) Take all measures laid down in the Charter system to ensure that the Spanish State **remedies**, effectively and as urgently as possible, these violations of social rights, given the serious and irreparable harm caused to women victims. To that end, **Spain is requested to introduce**, in order to comply with the imperatives of the Charter, **measures aimed at abolishing** the demand for prostitution and **to develop effective social policies for women victims**, particularly for their socio-labour and cultural reintegration into alternatives to the tragedy of prostitution.

D) Provide for the possibility of a public hearing, given the social and cultural significance of this matter for all of Europe, and/or invite those States that have adopted the abolitionist model to present their positive results in protecting women victims, as well as the NGOs working on the ground with women and girls who are victims of prostitution, so that they may present their favourable experience, in terms of human rights and the improvement of women's dignity, of models that criminalise prostitution and are accompanied by comprehensive and effective socio-economic protection measures for women victims, including the regularisation of migrant women in irregular situations.

[signature]

Signed Pepe Álvarez Suarez

UGT Secretary General