



## **Committee of the Parties to the Council of Europe Convention on Action against Trafficking in Human Beings**

### **Recommendation CP(2018)27 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Spain**

*adopted at the 23rd meeting of the Committee of the Parties  
on 9 November 2018*

The Committee of the Parties to the Council of Europe Convention on Action against Trafficking in Human Beings (hereinafter referred to as "the Convention"), acting under the terms of Article 38(7) of the Convention;

Having regard to the purposes of the Convention to prevent and combat trafficking in human beings, while guaranteeing gender equality, protect the human rights of victims of trafficking, design a comprehensive framework for the protection and assistance of victims and witnesses, ensure the effective investigation and prosecution of the offences related to trafficking in human beings, and promote international co-operation;

Bearing in mind the provisions of Article 36(1) of the Convention concerning the monitoring role of the Group of Experts on Action against Trafficking in Human Beings (GRETA) in the implementation of the Convention;

Having regard to the Rules of Procedure of the Committee of the Parties;

Having regard to the instrument of ratification deposited by Spain on 2 April 2009;

Recalling Committee of the Parties' Recommendation CP(2013)10 of 7 October 2013 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Spain and the report of the Spanish authorities on measures taken to comply with this recommendation, submitted on 29 October 2015;

Having examined the second report concerning the implementation of the Convention by Spain adopted by GRETA at its 31st meeting (19-23 March 2018), as well as the comments of the Spanish Government received on 18 May 2018;

1. Welcomes the progress made since the first round of evaluation in the following areas:
  - the further development of the legal framework for combating trafficking in human beings (THB), by adding forms of exploitation and expanding the list of means in the definition of trafficking in human beings, extending the minimum length of the recovery and reflection period from 30 to 90 days, and adopting legislation on the rights of victims of crime and the protection of children from all forms of violence, including human trafficking;
  - the appointment of a National Rapporteur for trafficking in human beings and the creation of the function of "social interlocutor" at *Policía Nacional* and *Guardia Civil* with a view to reinforcing co-operation with civil society in the fight against human trafficking;
  - the efforts made to provide training concerning different forms of human trafficking to relevant professionals and to expand the categories of staff trained;

- the steps taken to raise awareness of trafficking for the purpose of sexual exploitation and to discourage demand for sexual services as a root cause of human trafficking;
- the efforts made to improve the identification of victims of human trafficking through the adoption of a Framework Protocol on certain action related to unaccompanied foreign children, a draft Framework Protocol for the identification and assistance to child victims of trafficking, and regional protocols in several autonomous communities;
- the increased number of compensations granted by courts to victims of trafficking;
- the specialisation of law enforcement officers and prosecutors to deal with human trafficking cases and the active engagement in international co-operation, including participation in Joint Investigation Teams.

2. Recommends that the Spanish authorities take measures to address the following issues for immediate action identified in GRETA's report:

- adopt as a matter of priority a comprehensive national action plan including measures to:
  - strengthen action to combat THB for the purpose of labour exploitation and improve the identification of, and assistance to, victims of this form of trafficking, involving civil society, trade unions, labour inspectorates and the private sector;
  - address all victims of trafficking for all forms of exploitation, including forced marriage, forced begging, forced criminality and the removal of organs, while taking into account the gender dimension of trafficking and the particular vulnerability of children;
  - prioritise the identification of victims of trafficking amongst asylum seekers and irregular migrants;
- finalise the development of a comprehensive and coherent statistical system on measures to protect and promote the rights of victims of trafficking as well as on the investigation, prosecution and adjudication of THB cases. Statistics regarding victims should be collected from all main actors and allow disaggregation concerning sex, age, type of exploitation, country of origin and/or destination. This should be accompanied by all the necessary measures to respect the right of data subjects to personal data protection, including when NGOs working with victims are asked to provide information for the national database;
- intensify efforts to prevent THB for the purpose of labour exploitation, in particular by:
  - expanding the capacity and mandate of labour inspectors so that they can be actively engaged in the prevention of THB, including in private households;
  - addressing the risks of THB in the agricultural sector and ensuring that sufficient resources are made available to labour inspectors to fulfil their mandate, including in remote locations at risk of THB;
  - training labour inspectors throughout the country, as well as law enforcement officers, prosecutors and judges, on combating THB for the purpose of labour exploitation and the rights of victims;
  - reviewing the regulatory systems concerning migrants working as home care workers and ensuring that inspections can take place in private households with a view to preventing abuse of domestic workers and detecting cases of human trafficking;
  - strengthening the monitoring of recruitment and temporary work agencies and supply chains and reviewing the legislative framework for any loopholes that may limit protection or preventive measures;

- raising awareness among the general public as well as, in a targeted manner, among migrant workers, about the risks of THB for the purpose of labour exploitation;
- working closely with trade unions, civil society and the private sector to raise awareness of trafficking for the purpose of labour exploitation, prevent trafficking in supply chains and strengthen corporate social responsibility, drawing on the Guiding Principles on Business and Human Rights and Recommendation CM/Rec(2016)3 on human rights and business;
- ensure that unaccompanied and separated children benefit from effective care arrangements, including accommodation, access to education and healthcare, so that they are not exposed to risks of trafficking;
- take further steps to improve the timely identification of victims of THB, and in particular:
  - ensure that, in practice, formal identification of victims of THB does not depend on the presence of sufficient evidence for the initiation of criminal proceedings;
  - continue to strengthen multi-agency involvement in the identification of victims of trafficking by formally recognising the role of specialised NGOs in the decision-making process leading to identification;
  - increase efforts to proactively identify victims of trafficking for the purpose of labour exploitation, by reinforcing the capacity and training of labour inspectors and involving trade unions;
  - pay increased attention to the proactive detection of victims of trafficking among asylum seekers and persons placed in immigration detention, as well as migrants arriving in the autonomous cities of Ceuta and Melilla, allowing sufficient time to gather necessary information and taking into account their traumatic experience. In this context, training on the identification of victims of THB and their rights should be provided to asylum officers and staff working in centres where such persons are placed (CIE, CETI);
  - ensure the availability and quality of interpreters and cultural mediators during the investigation process;
- provide assistance, including safe accommodation, adapted to the specific needs of male victims of THB, in compliance with Article 12 of the Convention;
- improve the identification of, and assistance to, child victims of trafficking, on a basis of a specialised co-operation and referral mechanism which is integrated into the existing child protection systems, in particular by:
  - ensuring that relevant actors take a proactive approach and increase their outreach work to identify child victims of THB, by paying particular attention to unaccompanied and separated foreign children, including those arriving by sea and at the autonomous cities of Ceuta and Melilla, as well as to children from Roma communities;
  - providing further training to stakeholders (police, NGOs, child protection authorities, social workers) as well as guidance for the identification of child victims of THB for different purposes, including the exploitation of begging and exploitation of criminal activities;
  - setting up sufficient shelters with qualified staff and assistance services for presumed child victims of trafficking, for different forms of exploitation;
  - taking steps to address the problem of unaccompanied children disappearing by providing suitable safe accommodation and adequately trained supervisors or foster parents;
  - ensuring long-term assistance for the integration of child victims of trafficking;
- review the rules and application of the recovery and reflection period with a view to ensuring that:

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- all possible foreign victims of trafficking, including EU nationals, are systematically informed of the possibility to benefit from a recovery and reflection period. The involvement of specialised NGOs in the victim identification process and the possibility for NGOs to request themselves that a presumed victim of trafficking be granted a recovery and reflection period should be part of this review;
  - the relevant authorities are informed of the State's positive obligation to grant a recovery and reflection period to all possible victims of THB, whether or not such a request is made by the presumed victim;
  - make the State compensation scheme effectively accessible to victims of trafficking, including third-country nationals.

3. Requests the Government of Spain to report to the Committee of the Parties on the measures taken to improve the implementation of the Convention in the above-mentioned areas by **9 November 2019**.

4. Recommends that the Government of Spain take measures to implement the further conclusions of GRETA's second evaluation report.

5. Invites the Government of Spain to continue the dialogue in progress with GRETA and to keep GRETA regularly informed of the measures taken in response to GRETA's conclusions.