

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



**Recommendation CP/Rec(2023)08  
on the implementation of the Council of Europe Convention  
on Action against Trafficking in Human Beings  
by Spain**

*adopted at the 32nd meeting of the Committee of the Parties  
on 16 June 2023*

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(2018)27 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 13 May 2020;

Having examined the third report concerning the implementation of the Convention by Spain, adopted by GRETA at its 47th meeting (27-31 March 2023), as well as the comments of the Spanish Government received on 16 May 2023;

Bearing in mind the focus of the third evaluation round of the Convention on access to justice and effective remedies for victims of trafficking;

Considering the conclusions and proposals contained in Appendix I of GRETA's third report on topics related to the third evaluation round and follow-up topics specific to Spain;

Welcoming the measures taken and progress achieved by the Spanish authorities in implementing the Convention, and in particular:

- the further development of the legislative framework relevant to action against trafficking in human beings, including the strengthened protection of child victims of violence and the preparation of a draft comprehensive law on action against trafficking in human beings;

- the adoption of the National Strategic Plan against Trafficking in Human Beings (2021-2023) and the National Action Plan on Forced Labour;
- the legislative framework for access to free legal aid for victims of trafficking, the issuing of practical guidance for lawyers on the detection and legal assistance of victims of trafficking, and the availability of specialised lawyers;
- the publication of guidance to prosecutors and judges which aims at ensuring a coherent application of the existing legislation and in particular the non-punishment provision;
- the existence of investigators and prosecutors trained and specialised to deal with trafficking cases;
- the engagement in international co-operation in the fight against trafficking in human beings, including through setting up Joint Investigation Teams with a number of countries.

A. Recommends that the Government of Spain take measures to address the following issues for immediate action<sup>1</sup> identified in GRETA's report:

1. Make additional efforts to guarantee effective access to compensation for victims of trafficking, in line with Article 15 of the Convention, including by:
  - reviewing the eligibility criteria for access to the "public aid" under Law 35/1995, in order to enable all victims of trafficking in human beings, regardless of the form of exploitation and their migration status to access it;
  - reviewing the eligibility criteria for access to the Wages Guarantee Fund, in order to allow human trafficking victims who are undocumented migrants to recover the unpaid salaries (paragraph 99);
2. Take further measures to:
  - increase proactive investigations of trafficking for the purpose of labour exploitation;
  - step up their efforts to ensure that trafficking offences are prosecuted and classified as such every time the circumstances of a case allow this, whether or not the victim consented to be exploited as stipulated by Article 4(b) of the Convention (paragraph 117);
3. Intensify efforts to prevent and combat trafficking for the purpose of labour exploitation, taking into account GRETA's Guidance Note on preventing and combating trafficking for labour exploitation and Recommendation CM/Rec(2022)21 of the Committee of Ministers. This should include steps to:
  - ensure that sufficient resources are made available to labour inspectors to fulfil their mandate and carry out proactive and systematic inspections, including in remote locations at risk of THB;
  - review the legislative framework for any loopholes that may limit the prosecution and adjudication of cases of trafficking for the purpose of labour exploitation;
  - address the risks of THB in the agricultural sector and improve the detection of possible victims of trafficking among agricultural migrant workers. In particular, immediate action should be taken to ensure the detection of possible victims of human trafficking living in the informal settlements of migrant workers;
  - guarantee that the living and working conditions of migrant workers, in particular in the agriculture sector, meet all the requirements laid down in the legislation with a view to preventing abuse and exploitation (paragraph 190);

<sup>1</sup> The number of the paragraph setting out GRETA's proposals in the report is indicated in brackets.

4. Step up efforts to prevent and combat trafficking of children, identify child victims of trafficking, and provide appropriate assistance to them, in particular by:

- ensuring 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;
- increasing the capacity to detect child victims of trafficking by any professionals who may come into contact with children, in particular by providing adequate training on the use of trafficking indicators;
- improving the procedures for the identification of child victims of trafficking, in particular among unaccompanied foreign children, and ensure that the best interests of the child is the primary consideration;
- increasing the availability of places in safe and specialised accommodation for all child victims of trafficking, with professionals adequately trained (paragraph 216);

5. Take measures to:

- put in place and operationalise a National Referral Mechanism defining the roles and procedures to be followed by all stakeholders that may come into contact with victims of trafficking;
- ensure that, in practice, formal identification of victims of human trafficking does not depend on the presence of sufficient evidence for the initiation of criminal proceedings;
- strengthen 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, as well as the Canary Islands;
- respect the principle of non-refoulement in particular by ensuring that pre-removal risk assessments prior to all forced removals from Spain fully assess risks of trafficking or re-trafficking on return. The Spanish authorities should take full account of the UNHCR guidelines on the application of the Convention relating to refugee status to victims of trafficking, and their right to seek asylum, and to GRETA's Guidance Note on the entitlement of victims of human trafficking, and persons at risk of being trafficked, to international protection (paragraph 240);

6. Increase the number of places in specialised accommodation for male victims and victims of forms of exploitation other than sexual exploitation (paragraph 256);

7. Take further steps to ensure that all presumed foreign victims of trafficking, including EU/EEA nationals, are offered a recovery and reflection period and all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period (paragraph 262).

B. Recommends that the Spanish authorities take measures to implement the other proposals for action listed in Appendix 1 of GRETA's third evaluation report.

C. Requests the Government of Spain to report to the Committee of the Parties on the measures taken to comply with this recommendation by **16 June 2025**.

D. 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.