



## **G R E T A**

Group of Experts on Action  
against Trafficking in Human Beings

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### **Reply from Spain to the Questionnaire for the evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by the Parties**

#### **Third evaluation round**

**Thematic focus: Access to justice and effective remedies for  
victims of trafficking in human beings**

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## Introduction

In accordance with Article 38, paragraph 1, of the Convention on Action against Trafficking in Human Beings ("the Convention"), GRETA evaluates the implementation of the Convention following a procedure divided into rounds. At the beginning of each round, GRETA selects the specific provisions on which the evaluation procedure is based.

The first round of monitoring of the Convention provided an overview of its implementation by State Parties. The second evaluation round of the Convention examined the impact of legislative, policy and practical measures on the prevention of trafficking in human beings (THB), the protection of the rights of victims of trafficking, and the prosecution of traffickers, paying particular attention to measures taken to address new trends in human trafficking and the vulnerability of children to trafficking.

GRETA has decided that the third evaluation round of the Convention will focus on trafficking victims' **access to justice and effective remedies**, which is essential for victims' rehabilitation and reinstatement of rights and reflects a victim-centred and human rights-based approach to the fight against human trafficking. A number of provisions of the Convention establishing substantive and procedural obligations are relevant to this topic. Moreover, victims of trafficking, by virtue of their status as victims of human rights violations, are entitled to effective remedies under the European Convention on Human Rights. Access to justice and effective remedies must be guaranteed, in a gender- and age-sensitive manner, to all victims of trafficking subject to the jurisdiction of State Parties, irrespective of their immigration status or presence on the national territory and notwithstanding their capacity or willingness to cooperate in any criminal investigation.

Access to justice and effective remedies is contingent on the fulfilment of a number of preconditions, including prompt and accurate identification of victims of trafficking, the provision of a recovery and reflection period, the availability of material, psychological, medical and legal assistance, regularisation of the victim's stay, the right to seek and enjoy asylum, and the application of the principle of *non-refoulement*. These preconditions, corresponding to different provisions of the Convention, have been examined at length during the first and second evaluation rounds of monitoring of the Convention. Consequently, GRETA has decided to ask each State Party for an update on the implementation of GRETA's previous recommendations on selected topics, through a separate country-specific part of the questionnaire, rather than including once again questions related to the same provisions in the general questionnaire for the third evaluation round.

States Parties are requested to transmit to GRETA a reply to this questionnaire **within four months** from the date it was sent. The reply to the questionnaire should be submitted in one of the official languages of the Council of Europe (English and French), and preferably also in the original language. Where appropriate, in order to avoid unnecessary repetition, the reply may refer to information contained in the report submitted by the national authorities on measures taken to comply with the Committee of the Parties' recommendation concerning the implementation of the proposals made in GRETA's second evaluation report. States Parties should provide links, copies or extracts of relevant legislation, regulations, national action plans and case-law mentioned in the reply to the questionnaire, in the original language and, wherever possible, also in one of the official languages of the Council of Europe.

A variety of stakeholders and civil society representatives should be effectively consulted in the preparation of the reply to the questionnaire, to ensure that the information provided is as comprehensive as possible.

## Part I - Access to justice and effective remedies

### 1. Right to information (Articles 12 and 15)

**1.1 How, at what stage and by whom are presumed victims and victims of THB informed of their rights, the relevant judicial and administrative proceedings, and the legal possibilities for obtaining compensation and other remedies, in a language that they can understand? Please provide copies of any information materials developed to inform victims of THB, including any materials specifically developed for child victims, in the languages in which they exist.**

In the sphere of the State Law Enforcement Bodies (FFCCSE in Spanish), there are officers specialising in the matter. In their capacity as Social Interlocutors, they act as mediators and collaborate with entities of proven experience in assisting THB victims, exchanging information and fostering coordination protocols with a view to assisting the victim quickly and advising them suitably as regards their rights and the administrative procedures arising from their situation.

Via the National Social Interlocutor, the regional social interlocutors update the Guide to available public or private resources for assistance to THB victims.

It is the police units that become aware of the detection of a possible victim of trafficking of human beings (THB). They then adopt the necessary measures aimed at ensuring protection for their rights, social and medical assistance, and the legal support they may need, requesting collaboration from specialist bodies.

Many victims are identified as such or as potential victims of trafficking when a police operation is being carried out. To do so, the police officers are specifically trained to detect possible trafficking victims, identifying certain indicators that reveal said status, and via confidential interviews with them.

When the interview is over, the potential victim is informed of their right to free legal aid when they do not have sufficient economic resources, with no detriment to the possibility of legal advice offered by organisations and entities with proven experience in assistance and protection for trafficking victims.

They are also informed of the possibility of contacting one such specialised organisation to assist or accompany them, facilitating access between the two parties via the Social Interlocutor.

If the potential victim is a foreigner, they are immediately informed from the outset about the rights available to them depending on whether their situation is irregular or not, and about the possible risks and measures for security and protection it may be necessary to take.

All of this is carried out by means of a certificate<sup>1</sup> confirming they have been identified as a trafficking victim, in the place where they are detected as such or on police premises. The National Police's Victims Assistance Service for THB also has informative pamphlets in Spanish, Portuguese, English and Romanian<sup>2</sup>.

The **Framework Protocol for the Protection of Victims of Human Trafficking**, which provides the guidelines for action to detect, identify, assist and protect trafficking victims, has content with information for victims under its heading VII:

- ✓ Rights provided for in Articles 109 and 110 of the Criminal Procedure Act (LECrin in Spanish).
- ✓ The right to claim any of the protection measures provided for in Law 19/1994 on the Protection of Witnesses and Experts in Criminal Cases, and specifically the right to recognition of protected witness status.

<sup>1</sup>The Procedures used by the National Police in Spanish and English are attached (Annex 1) and those used by the Civil Guard (Annex 2).

<sup>2</sup> See Annex 3

- ✓ In the event that they are also the victim of a violent crime or a sexual offence, the rights provided for by [Law 35/1995 on Aid and Assistance for Victims of Violent Crimes and Sexual Offences](#) apply. And if the person in question is their partner or ex-partner, the rights provided for by Constitutional Act 1/2004 on Protection Measures Against Gender Violence are applicable as a victim of gender violence.
- ✓ If the person is a foreigner in an irregular situation, they are informed of their right to a period of recovery and reflection and the possibility of obtaining authorisation for residence and work or assisted return to their country, in accordance with Articles 59 of [Organic Law 4/2000 of 11 January on the rights and freedoms of foreigners in Spain and their social integration](#), 142 et seq. of its regulations.
- ✓ When the person is a foreigner in a regular situation but whose authorisation to stay or reside will soon expire, they are informed of the possibility of requesting a period for recovery and reflection when it expires. Likewise, they can apply for assisted return to their country.
- ✓ The protection measures suited to their situation, assessed by the police.
- ✓ They are informed of the possibility of being referred to one of the assistance resources provided by the autonomous regional or local governments and entities with proven experience in trafficking victims, particularly those that provide comprehensive assistance and participate in the public administrations' programmes to assist and protect such people.

In addition to all of the above, victims who are legal minors have the following tools available:

- ✓ **Framework Protocol on specific action in relation to Unaccompanied Minors (MENAs in Spanish)**. This aims to set out the guidelines for coordination as regards the procedures to identify minors, determine their age and hand them over to the public entity for protecting minors, as well as the proper functioning of the Unaccompanied Minors Registry (RMENA in Spanish), concentrating on ensuring the minor's greater interest. Furthermore, among the regulated matters, there are aspects concerning the protection of foreign minors as victims of trafficking.
- ✓ **Annex to the Framework Protocol on protection of victims of human trafficking regarding action to detect and assist trafficking victims who are minors**. Approved by the Children's Observatory on 1 December 2017, this is intended to guide professionals in different spheres of activity (public authorities, bodies, entities and organisations from civil society) to recognise the signs of possible trafficking with minors by setting out a catalogue of specific indicators to detect them, as well as giving them a streamlined process to refer them to protection and effective assistance services for their specific needs.

It also aims to foster cooperation between institutions to improve assistance for minors who are victims of trafficking for any purpose of exploitation, minimising primary victimisation as far as possible via prevention, early detection and immediate action, and avoiding secondary victimisation they may suffer in the procedure as of their identification.

## **1.2 How is the obligation to provide translation and interpretation services, when appropriate, met at different stages of the legal and administrative proceedings by different agencies?**

In the meetings, interviews to take down statements, inform of rights etc., the victim is assisted by interpreters and informed in a language they understand about the rights applicable to them, as well as any circumstance of interest as regards their case.

There is no specific procedure in practice to provide the assistance of a translator. Sometimes there are difficulties in finding them due to the victims' place of origin (such as some Chinese or African languages that are not used in our geographic area).

The most common procedure is to resort to interpreters hired to collaborate in investigations into other types of crime and types of person, evaluating in such cases the qualities and skills for interacting with especially vulnerable people who are victims.

## 2. Legal assistance and free legal aid (Article 15)

### Preliminary consideration

The five questions posed are related to the Spanish system of legal aid in the criminal procedure for victims of a criminal offence (regulated by the Criminal Procedure Act and Law 4/2015 of 27 April on the Standing of Victims) and to the legal regime for the right to free legal aid.

In order to understand the reply we are going to give, it is necessary to recall the characteristics of the national regime of free justice:

**a) Regulation.** The Spanish system of free legal aid is regulated by [Law 1/1996 on Free Legal Assistance](#) (LAJG in Spanish) applying Article 119 of the [Spanish Constitution](#) (EC in Spanish), which states that "Justice shall remain free when thus provided by law, and shall in any case be so in respect to those who have insufficient means to litigate".

**b) It is an administrative procedure.** The procedure by which the right is recognised is an administrative one and the deciding bodies in the first instance are the provincial Free Legal Aid Committees (based on [Law 53/2002, on Tax, Administrative and Social Order Measures](#), the Central Bodies' Free Legal Aid Committee was created).

**c) The legal assistance services are organised by the respective bar associations.** Lawyers are attributed an important role in the procedure for recognising free legal aid via their powers for initial screening of the applications received, requesting recognition of that right and communication with the Court Representatives' Bar, as well as in organising the *free legal aid, defence and representation service* (appointed legal aid system).

**d) They are paid by public funds.** Although the service, structure and organisation are carried out by the lawyers' bar associations, the funding is public. In other words, a legal regime has been set up for state-subsidised Free Legal Aid services (Chapter V of the LAJG), with the economic rules and modules for compensation being regularly organised paying attention to the type of procedure being dealt with.

### e) The nature of the right to free legal assistance.

1) It is a *social benefit* and a *legally established right* whose content and specific conditions for implementation are delimited by the legislator, addressing the public and private interests involved and the specific budgets available, which aim to ensure the principles of *audi alteram partem* (hearing both sides) and procedural equality between the parties, preventing any person from being left procedurally defenceless due to not having the resources to litigate (see STC (Constitutional Court Judgment) 16/1994 of 20 January and STC 183/2001 of 17 September).

2) The proclamation in Article 119 of the Spanish Constitution is instrumental with regard to the right to *effective legal protection* (Art. 24 EC). It is intended to guarantee the principles of *audi alteram partem* (hearing both sides) and *equality of arms* (Constitutional Court Judgments (STC) of 20 January; STC 117/1998 2 June; STC 183/2001, of 17 of September). Thus:

- ✓ The right to free legal aid extends not only to procedures in which intervention by the lawyer and the court representative (party agent) is mandatory by law; there is also the possibility of defending oneself when it is manifestly essential in order to place the party lacking economic means at the same level of defence as the opposing party (STC 216/1988 14 December; 47/1987 of 22 April).

- ✓ The justification of the right to free legal assistance is proclaimed to be determined by the guarantee of the *interests of justice* such that not only is expert involvement working in defence in a trial applicable, but it also includes **assistance prior to the trial or outside it**, thereby giving rise to the true understanding of the right as *effective technical defence*.

**f) Scope of application.** Art. 1 of LAJG states that “[...] *The provisions of this law shall be generally applicable in all kinds of judicial procedures, including appeals under constitutional protection, the prior administrative path when thus provided for by the specific legislation, and assessment prior to the procedure provided for in Section 1 of Article 6 [...]*”.

That means it is applicable in the sphere of administrative law on immigration as provided for in Article 22 of Organic Law 4/2000 of 11 January on the rights and freedoms of foreigners in Spain and their social integration (LOEX in Spanish), which (following the principles established by STC of 7 November 2007 (No. 236/2007)) was reformed by Organic Law 2/2009.

### **g) Specialisations in the sphere of criminal jurisdiction as regards victims of the offence.**

- ✓ **Victims in general.** [Law 4/2015 of 27 April on the Standing of the Victims of Crime](#) (EV in Spanish) recognises the right of all victims to be able to present their applications for recognition of the right to free legal aid to the public official or authority that provides them with the information referred to by letter c) of Article 5.1, which will be conveyed together with the documents provided by the victim to the corresponding lawyers’ bar (Art. 16 EV).
- ✓ **Victims of certain criminal offences including the offence of trafficking of human beings.** Following the amendment to Article 2 letter g) of LAJG by [Organic Law 8/2021 of 4 June on comprehensive protection for children and adolescents against violence](#), special treatment is given to the victims of trafficking: it is a right recognised by law regardless of the victim’s economic capacity; legal assistance is provided immediately; and it extends to all successors in the event of death.

## **2.1 How, by whom and from what moment is legal assistance provided to victims of trafficking?**

1. Free legal assistance is given by the lawyer appointed by the legal system from the region’s applicable bar association as of the very moment their involvement is required whether by the interested party or judicial requirement when the procedure has reached such a state that legal intervention is necessary in the defence of justice and of the principles of equality of arms and hearing both sides.

With no detriment to this, **Art. 21, c) EV** provides for reinforced protection of any victim of a criminal offence. *The authorities and public officials responsible for the criminal investigation shall ensure that, provided it does not damage the effectiveness of the procedure: [...] c) The victims may be accompanied by, in addition to their procedural [court] representative and where applicable their legal representative, a person of their choice, while the proceedings in which they must take part are being carried out, unless the public official or authority responsible for carrying out the proceedings to ensure they are carried out properly rules otherwise with reasons.* For trafficking victims, this task (upon request by the victim) may be carried out by members of the NGO that are helping them.

2. All victims of the trafficking of human beings within the *scope of criminal procedure*, whatever their economic capacity, have a legally recognised right to free legal assistance, which shall be provided for them immediately (Art. 2 g LAJG).

**Article 2 LAJG:** (...) “g): *Regardless of the existence of resources to litigate, the right to free legal aid is recognised, which shall be provided immediately to the victims of gender violence, terrorism and human trafficking in procedures that are linked, arise from or are the result of their being victims, as well as to minors and people with a disability needing special protection when they are the indirect victims of crimes of homicide, of the injuries in Articles 149 and 150, of the offence of habitual mistreatment provided for in Article 173.2, of offences against freedom, of offences*

*against sexual freedom and security and of crimes of trafficking of human beings. This right is also applicable to successors in the event the victim dies, provided they did not take part in the facts. For the purposes of conceding the benefit of free justice, the condition of victim shall be acquired when the complaint or lawsuit is lodged, or when criminal proceedings begin, for any of the offences referred to under this letter, and it shall be maintained while the criminal proceedings are in progress or when, after they end, a conviction has been handed down. The benefit of free justice shall be lost after a final judgment of acquittal or definitive or provisional dismissal due to the criminal events not being proven, with no obligation to pay the costs of the services received freely until that time. In the different proceedings that may begin as a result of being a victim of the offences referred to under this letter, and especially those of gender violence, it must be the same lawyer who assists them, provided they will thus have their right to defence duly guaranteed”.*

3. When a presumed trafficking victim makes an application, or where applicable a judge hearing the case issues a court order on his/her own authority (Art. 21 LAJG and Art. 245. 1 b of [Organic Law 6/1985 1 July on Judicial Power](#), LOPJ), the corresponding bar associations (normally the bar associations’ legal guidance services) assign a lawyer and court representative (first provisionally until their approval by the Provincial Committee) (Art. 15 LAJG).

4. It includes free consultancy and guidance prior to the proceedings.

**Article 6.1 LAJG.** The right to free legal assistance includes the following services: 1. Free consultancy and guidance prior to the proceedings for those intending to claim legal protection of their rights and interests, as well as information about the possibility of resorting to mediation or other extra-judicial measures to solve conflicts, in cases not expressly forbidden by law, when they aim to avoid procedural conflict or to analyse the feasibility of the intention [...].

5. The right to free legal assistance also extends to the *potential victims* who are identified in the sphere of administrative law (Art. 59 bis LOEX).

While Article 59 bis LOEX (transposition of Art. 10 of the Council of Europe Convention on Action against Trafficking in Human Beings) is regulated in the sphere of administrative sanctions law (Title III of LOEX) as a regime of exemption from administrative responsibility, all victims in this situation (with no distinction whatsoever regarding the type of exploitation they may presumably have suffered) have a recognised right to free legal assistance in the terms laid down in Article 22 of LOEX and with the content and extent provided for by Law 1/1996 on Free Legal Assistance and Constitutional Court Ruling 236/2007 of 7 November.

**Article 22 LOEX** "1. *Foreigners in Spain have the right to free legal assistance in proceedings to which they are a party, whatever jurisdiction they are following, in the same conditions as Spanish citizens. 2. Foreigners in Spain have the right to legal assistance in administrative proceedings that may lead to them being denied entry, returned or expelled from Spanish territory and in all procedures in the matter of international protection, as well as to assistance from an interpreter if they do not understand or speak the official language used. Such assistance shall be free of charge when they do not have sufficient economic resources according to the criteria set out in the regulations on the right to free legal assistance. 3. In administrative proceedings against sentences that put an end to the administrative path as regards denial of entry, return or expulsion, recognition of the right to free legal assistance would require the due request to be made in the terms provided for in the rules regulating free legal assistance. The intention to lodge an appeal or exercise the corresponding action must be expressed in accordance with the provisions of Law 1/2000 of 7 January on Civil Procedure, or in the event that the foreigner may be deprived of their freedom, in the way and through the public official determined by the regulations. For the purposes intended in this section, when a foreigner has the right to free legal assistance and is outside Spain, the request itself and where applicable the manifestation of the intention to appeal may be made in the corresponding diplomatic mission or consular office”.*

Lastly, and for informative purposes, it is noted that the Foundation of the General Council of Spanish Lawyers has published a manual entitled "[Detection and Defence of Trafficking Victims](#)", a practical guide for lawyers". For the same purposes, one can consult the [Protocol for action for duty lawyers in the matter of trafficking of human beings, from the Madrid Bar Association](#).

### **How is legal assistance provided to children?**

Minors who are presumed to be victims of the offence of trafficking (according to what is laid out in the preceding paragraph) have free legal assistance immediately granted, which is exercised in accordance with LAJG (Art. 2 g). The minor's intervention in the criminal procedure is carried out through their legal representative, litigation friend (\*) and the person assisting them. The public prosecutor is obliged to ensure *especially compliance with the right to protection, adopting measures suited to their greater interest when necessary to prevent or reduce damages that may arise for them from developments in the proceedings* (Art. 19, paragraph 2, EV).

Article 26.2 EV expressly determines that: "[...]. 2. *The public prosecutor will obtain the designation of a litigation friend for the victim from the judge or court to represent them in the investigation and in the criminal procedure, in the following cases: a) When he/she esteems that the legal representatives of a victim who is a minor or who has a legally limited capacity have a conflict of interests with the victim, arising or not from the facts being investigated, which leads to a lack of confidence in their interests being handled adequately in the investigation or the criminal procedure. b) When the conflict of interests referred to in letter a) of this section exists with one of the parents and the other party is not in conditions to adequately exercise their functions of representation and assistance to the victim who is a minor or has limited legal capacity. c) When the victim who is a minor or has limited legal capacity is not accompanied or has been separated from those exercising patria potestas or positions of guardianship*".

In the case of potential victims (administrative sphere), foreign minors cannot be active subjects for any of the offences provided for in the Articles in Title III of the LOEX. No punitive procedure of any kind for immigration can be initiated against them. In the event of being found in a situation of abandonment (with no adults being responsible for them), they are automatically placed under the guardianship of the competent regional autonomous protection bodies (Art. 35 LOEX). If there are opposing interests with their institutional guardian in exercising a specific right or action, they will be assigned a litigation friend.

### **2.2 Do all presumed victims of THB have access to legal assistance, irrespective of immigration status or type of exploitation?**

There is no exception whatsoever (see Art. 2 letter g of LAJG above). All potential victims (administrative sphere) and procedural victims (criminal procedure sphere) have the right to free legal assistance (in their case freely assigned) with no discrimination of any kind for reasons of nationality, administrative situation, kind of trafficking, etc.

### **2.3 What are the conditions for access to free legal aid for victims of THB, including children?**

The conditions are given in [Law 1/1996 of 10 January on Free Legal Assistance](#), specifically in Section g, Article 2, which was amended by Law 42/2015 of 5 October, which states:

*"g) Regardless of the existence of resources for litigation, the right to free legal assistance is recognised, which will be provided immediately for victims of gender violence, of terrorism and of trafficking in human beings in proceedings that are linked, arise from or are a consequence of their condition of victims, as well as for minors and people with intellectual disability or mental illness when they are victims of a situation of abuse or mistreatment"*.

That is why no requirements of any kind are demanded of THB victims for access to free justice, and therefore they are exonerated from proving that they do not have economic resources to access the benefit of free justice. They do not have to pay any fees, either.

## For which types of proceedings is free legal aid available?

As provided for in the transcribed regulation, in all of the victims' proceedings, without distinction, which are linked to, arise from or are a consequence of their condition of victims.

## Is free legal aid available to help victims claim compensation and execute compensation orders?

Free legal aid includes assistance in criminal procedures, from which compensation payment may arise as well as the implementation of Judgments that have established such compensation.

Article 19 of [Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims](#) regulates trafficking victims' compensation and provides for them to get the pertinent legal advice to enforce it.

In Spain, Article 110 of the Criminal Procedure Act states that:

*"Those who have suffered a crime or lesser criminal offence and who have not waived their right can claim to be a party in the case if they do so before the proceeding to classify the crime and exercise the relevant civil action as they consider convenient, without this resulting in any reversal in the progress of the proceedings.*

*Even when the injured parties do not claim to be a party in the case, this does not mean that they waive the right to restitution, redress or compensation in their favour that may be agreed in a final judgment. For this right to be waived, it must be done clearly and conclusively."*

As a result, there is an adequate legal framework. However, certain circumstances concur that hinder the THB victims' right to compensation from being enforced:

- 1) Evaluation of the damages and therefore the final compensation is carried out following non-unified criteria, which makes it incompatible with certain legal security.
- 2) The compensation is not paid on many occasions and the implementation is not effective.
- 3) There is no compensation fund for trafficking victims created on a state level that responds to non-payment of such compensation.
- 4) [Law 35/1995 on Aid and Assistance for Victims of Violent Crimes and Sexual Offences](#) is clearly insufficient to be able to cover trafficking victims' right to redress and the women are not even considered to all administrative intents and purposes as victims of a manifestation of gender violence (for access to certain resources, for example).

## Please provide the text of the relevant provisions.

The texts are provided via the following direct links:

- ✓ [Recommendation from the State Public Ombudsman on Lawyers' Aid to THB victims](#)
- ✓ [Law 1/1996 of 10 January on Free Legal Assistance](#)
- ✓ [Guide on Trafficking Victims from the Foundation of the General Council of Bar Associations](#)
- ✓ [Protocol on Trafficking from the Madrid Bar Association](#)
- ✓ [Law 4/2015 of 27 April on the Standing of Victims of Crime](#)

## 2.4 Are there lawyers specialised to provide legal aid and represent victims of THB in court?

[Law 1/1996 on Free Legal Assistance](#) sets out in its Art. 24 that “Bar Associations, except for those whose low level of activity means it is not necessary, shall have a permanent on-call legal aid to provide the service of lawyer assistance for the detainee, and another to provide the services of prior assessment and lawyer assistance for victims of gender violence, terrorism, trafficking in human beings and minors and people with intellectual disability or mental illness who are victims of a situation of abuse or mistreatment.”

As a result, not all bar associations have a legal aid system specialising in human trafficking.

On the other hand, the different arrangements of the appointed legal aid system in Spanish bar associations mean that this question cannot be answered as a generalisation. For example, the Madrid Bar Association has a specific appointed legal aid system to assist trafficking victims, as does the Seville Bar Association and recently the one in Murcia, but the requirements to access it, the training and the functions of the lawyers who take part in such systems vary from one place to another, since there is no general regulation for this kind of specific system, which would be highly advisable so as to make the assistance for victims uniform. Furthermore, the economic conditions via which the service is carried out are not the same in the different bar associations, since some of them have established appointed legal aid systems or committees specialising in trafficking at zero cost; i.e. they are not on-call shift systems and have no assigned funding, regardless of the lawyers having to receive training in the matter.

The General Council of Bar Associations (CGAE in Spanish) has created specific training courses upon request by numerous Spanish Bar Associations in order to raise awareness about the problem and to provide the essentials to detect trafficking victims, given by experts in the field and in some cases moreover specialising in appointed legal aid. The CGAE has also mediated between bar associations to share criteria of good working practices to create specific appointed legal aid, thereby attempting to make its functioning uniform and to establish some standards of quality on providing the service.

### **What regulations, if any, are applicable to the provision of such legal aid/representation?**

The specific regulations are found in the aforementioned Law 1/1996 of 10 January on Free Legal Assistance, [Law 4/2015 of 27 April on the Standing of Victims of Crime](#), and the Law on Judicial Procedure and Law on Civil Procedure.

### **2.5 How is the provision of legal assistance and free legal aid for victims of THB funded?**

Funding for legal aid for THB victims also varies with the geographical area where it is given. In the cases where the Autonomous Community regions have been delegated the competences in matters of justice, they are the ones responsible for the payment via their own budgets linked to the Regional Department of Justice. When that is not the case, it is the Ministry of Justice that takes responsibility for paying the lawyers who provide the service. However, in no case is there a special budget item for this type of aid, which is paid within the expenses of Free Justice in general and in accordance with the scales for remuneration for work corresponding to the service of free justice by lawyers. If in future, as some legal sectors are demanding, the procedures for these kinds of crimes take place in a central State judicial body such as the National Court, the payment will be made exclusively by the Spanish State.

### **Do victims have to pay a fee to obtain legal assistance or start a procedure, or are there other financial barriers in place? If yes, please specify the amount(s).**

There is no fee that the victims have to pay to deserve this kind of recognised right, nor to start a judicial procedure, whether civil or criminal. They are also exempt from paying administrative fees as regards their applications for authorisation of residence as victims.

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It is important to note that in addition to legal representation in the proceedings, recognition of Free Legal Assistance implies exemption of payment of certain services that may be necessary to carry out the procedure such as paying experts, notaries or obtaining certificates, all of which is in keeping with the provisions of Art. 6 of Law 1/1996 on Free Legal Assistance, "Material Content of the Right".

The only barrier may appear on paying for private experts that are not from non-profit entities.

### 3. Compensation from the perpetrators (Article 15)

#### 3.1 What measures are in place to enable courts to award compensation to victims of THB, including children, from the perpetrators as part of criminal proceedings? What is the role of prosecutors in this respect?

In Spain, legal liability arising from a criminal offence being committed is regulated by Articles 109 to 122 of the Criminal Code (CP in Spanish). In principle, whoever commits a criminal offence is obliged to compensate the party to whom they have caused material or moral damages (Art. 110 and 113 CP).

However, if multiple subjects have taken part, it is possible to distribute it among all of them according to the type of participation (perpetrator, accomplice, etc.) and their direct or subsidiary responsibility (Art. 116 CP).

Criminal legislators also take into account that it may be committed by legal entities (Art. 116.3 CP); that within the sphere in which the victim carried out their activity (relevant in the event of trafficking for forced labour committed in conjunction with accidents at work) they may be insured (Art. 117 CP); and that the perpetrator may be exempt from criminal liability (Art. 118 CP).

It is important to point out that *compensation for material and moral damages* (economic redress for the injured party) is a common way to specify the liability of the perpetrators of the crime of trafficking in human beings, with the amount being established in keeping with the concurrent circumstances in each case, which must be reasonably evaluated by the Court following the guidelines set out in common law.

Civil liability arising from the criminal offence is exercised together in the same criminal procedure unless the victim has expressly waived any kind of compensation or has reserved the right to take the path of civil jurisdiction.

**Article 100 of the Criminal Procedure Act (LECrim)** *All offences and crimes give rise to criminal proceedings to punish the guilty party and may also give rise to civil action for the return of things, repair of damages and compensation for damages caused by the punishable act.*

**Article 108 LECrim.** *Civil action must be initiated by the Public Prosecution Service together with the criminal action, whether or not there is a private prosecutor to the proceedings; but if the aggrieved party expressly waives their right to restitution, redress or compensation, the Public Prosecution Service will limit itself to requesting punishment of the guilty parties.*

In Spanish Law, the victim of a criminal offence (whether of legal age of majority, a minor or under guardianship or guardian advocacy) is a party to the criminal procedure with the right to actively participate in it (Art. 11 EV in relation to Art. 100 et seq. LECrim). As a party, they can request any proceedings for proof (or for investigation) aimed not only at ensuring the investigated party's assets or those of the jointly and severally liable parties, but also at determining the damages suffered, physical and mental after-effects, and the amount of compensation.

**Article 109 LECrim.** *When the Judge receives the statement from the aggrieved party who has the necessary legal capacity, the Court Clerk will instruct them of the right to appear as a party in the proceedings and waive, or not, the restitution of things, repair of damages and compensation for damages caused by the punishable fact. Furthermore, they will be informed of the rights included under current legislation, and may delegate this function to staff specialising in victim support. If the person is a minor or has limited legal capacity, the same legal measure will be taken with their legal representative or person helping them. [...]*

**Article 4 EV.** [...] *c) The victim may be accompanied by a person of their choice as of their first contact with the authorities and officials.*

**Article 5 EV.** *Right to receive information as of first contact with the competent authority. 1. As of their first contact with the authorities and officials, including the moment prior to making the*

*complaint, all victims are entitled to receive, without unnecessary delay, information suited to their personal circumstances and situation and to the nature of the offence committed and the harm or loss suffered, regarding the following points: a) Available assistance and support, whether medical, psychological or physical, and the procedure for obtaining them. Where appropriate, this shall include information about the possibility of alternative accommodation. b) The right to make a complaint and, where applicable, the procedure for making a complaint and the right to provide the authorities responsible for investigating with evidence. c) The procedure for obtaining legal advice and defence and, where applicable, access to legal aid. d) The possibility of requesting protection measures and, where applicable, the procedure for doing so. e) Compensation to which they may be entitled and, where applicable, the procedure for claiming it. f) Available interpretation and translation services. g) Available communication support and auxiliary services. h) The procedure by which victims can exercise their rights if they reside outside Spain. i) Appeals which may be lodged against decisions which victims consider to be contrary to their rights. j) Contact details of the authority responsible for dealing with the procedure and channels for communicating with that authority. k) Available restorative justice services, where legally possible. l) Circumstances in which expenses incurred in legal proceedings may be reimbursed and, where applicable, the procedure for claiming them. m) The right to request to be notified of the decisions referred to in Article 7. To this end, victims must designate, in their request, an email address or, failing that, a postal address or place of residence, to which communications or notifications from the authority are to be sent. 2. This information must be updated at each stage of the proceedings to ensure that victims are able to exercise their rights.*

The injured party may choose to demand civil liability through the Criminal Jurisdiction or reserve it to exercise it through the Civil Jurisdiction.

**Article 110 LECrim.** *The parties injured by an offence or misdemeanour who have not waived their right may become a party to the case if they do so prior to the procedure classifying the offence and take such civil action as is appropriate, as they deem fit, without this causing a delay to the course of proceedings. If they legal action as a personal party after the deadline for formulating the accusatory pleading, they may exercise the criminal legal action until the trial begins, adhering to the accusatory pleading formulated by the Public Prosecution Service or the other private accusations. Even where the injured parties do not become a party to the proceedings, this does not mean that they waive their right to restitution, redress or compensation which may be agreed in their favour in the final judgment. To waive this right, as applicable, they must do so in a clear and categorical manner.*

If they choose to take part in the criminal procedure, their rights will be applied through the Standing of Victims in all stages of the proceedings.

**Article 11 EV.** *Active participation in the criminal procedure. All victims are entitled: a) To bring criminal and civil legal action in accordance with the Criminal Procedure Rules, subject to any possible exceptions; b) To be heard by the authorities responsible for the investigation to provide them with evidence and any information they consider relevant to clarify the facts.*

The position of the victim in the criminal procedure is reinforced, even when they do not take part as private accusation, due to their right to be suitably informed about the status and progress of the proceedings. In this vein, Article 12 of the EV provides for notifying the victim of dismissal of the procedure in case they wish to appeal against it, issuing Instruction 8/2005 FGE from the State Public Prosecutor (FGE) for public prosecutors to enforce compliance with this obligatory notification.

**Article 12 EV.** *"Notification and review of a decision not to prosecute at the request of the victim. 1. The direct victims who reported the facts and also other direct victims whose identity and address are known shall be notified of the decision not to prosecute in accordance with the Criminal Procedure Act. In cases of death or disappearance of a person directly caused by an offence, the individuals referred to in point b) of Article 2 shall be notified, in accordance with the Criminal Procedure Act. In such circumstances, the judge or court may, giving reasons, order the notification*

*of all the relatives to be dispensed with where several of them have already been successfully notified or where the efforts to locate them have proved unsuccessful. 2. Victims may appeal against a decision not to prosecute in accordance with the Criminal Procedure Act, without the need for them to have previously appeared in the proceedings."*

The judge, upon their own authority or at the request of a party, may initiate separate civil liability proceedings (Art. 590 LECrim) in which the person for whom there is pre-trial evidence of criminality shall be ordered to *provide a bond that is sufficient to ensure the monetary liabilities which, definitively, may be declared appropriate, with the attachment of sufficient assets to cover such liabilities being decreed in the same order, if no bond is provided* (Art. 589 LECrim). The LECrim regulates the types of bond those accused must provide (personal, pawned, mortgage, money surety, financial guarantee, etc.), which may be increased or decreased throughout the proceedings depending on the circumstances that arise (Art. 611 and 612 LECrim). A bond of the same kind can also be imposed on third parties that may incur in subsidiary civil liability (Art. 615 et seq. LECrim).

The Instruction of 1/1992 of 15 January from the State Public Prosecution Service regarding the processing of civil liability proceedings requires the public prosecutor to follow up on the civil enforcement.

**To sum up**, the Spanish procedural system is characteristic for unifying criminal and civil action through the criminal jurisdiction; lending a direct role for the victim who may take part in the proceedings as a party in the procedural legal relationship in the same conditions as the public prosecutor and the accused; and for establishing a dual system to ensure payment of civil liability (bonds or financial guarantees) and civil forfeiture of all or sufficient assets of the party on trial, the investigating judge doing so on their own authority or at the request of the interested party.

The public prosecutor is obliged to take the civil action on the victim's request for compensation, unless the latter has waived the right by law. In this vein, like any other party to the proceedings, the public prosecutor may request or support the evidence or investigation proceedings requested by the parties in order to establish the compensation due.

**Article 108 LECrim.** *"Civil action must be initiated by the Public Prosecution Service together with the criminal action, whether or not there is a private prosecutor to the proceedings; but if the aggrieved party expressly waives their right to restitution, redress or compensation, the Public Prosecution Service will limit itself to requesting punishment of the guilty parties."*

### **3.2 How is the amount of compensation calculated and are there specific criteria or models for calculating it? What types of injury/damage and costs are covered? Are there any circumstances/conditions that would lead to a reduction of the amount of compensation?**

As has been mentioned above, civil liability extends to *1. Restitution; 2. Repairing the damage; 3. Compensation for material and moral damages* (Art. 110 CP).

Calculation of compensation depends on the circumstances. It must be carried out paying attention to the individual case, assessing the objective circumstances (e.g. expenditure on healthcare for physical or mental recovery; whether or not the exploitation has effectively been carried out; if the offence is accompanied by other connected offences such as physical injuries, abortion, sexual aggression (duration dominated by the trafficker, greater vulnerability of the victim); minor, elderly, with physical or mental disability, pregnant woman; certain influential factors of a cultural, customary or religious nature etc.; time for physical or mental recovery; side-effects suffered; victim's lost profits; and many other circumstances that are less possible to predetermine) and moral damages.

Example of basis for moral damages by **Madrid Provincial Court Judgment (SAP) (Sec. 7) 20/3/2018 (No. 217/2018)**. Basis Six: *"Anybody criminally responsible for an offence also has civil liability, and by virtue of their accusers, jointly and severally they must compensate the so-called protected witnesses 6, 8 and 9 with 75,000 euros each for the moral damages caused. Moral damages are understood to mean any damage to a person's moral integrity that is personally felt and socially deemed as unacceptable, involving the simple pain arising from the criminal illegality,*

*the case-law referring in this sense to unease, worry, anguish, terror, dishonour, sadness or melancholy (Supreme Court Judgments of 29 June and 10 July 1987, 22 April 1997 and others). When attempting to set the civil liability for moral damages, it is not possible to use objective parameters or criteria, unlike that which occurs when the compensation addresses material damages susceptible to an evaluation of their cost and amount, so that the only basis for measuring the compensation for such moral damages and losses is the criminal action itself of which these are the consequence or result of cause and effect (Supreme Court Judgment (STS) Criminal Section 1 of 3 May 2017). In these circumstances, the moral damages arise directly and naturally from the criminal facts that have been declared proven and which do not require specific establishment of the basis to quantify them, since the compensation that must be indicated cannot be calculated with objective criteria but only via a global judgment based on a social feeling of redress for the damage done by the criminal offence, taking into account the nature of the actions, their seriousness, reiteration and context in which it occurred (Supreme Court Judgment no. 855/2016 of 11 November). In this case it is clear that exercising prostitution through threats, coercion and a situation of effective deprivation of freedom implies a serious attack on the victims' dignity and must be deemed to generate intense moral damage. The witnesses themselves told of the episodes suffered and the anguish and defencelessness they suffered as of their departure until they left the group's sphere of domination, in the case of protected witness no. 7 on her own initiative, and in the case of the two minors by police intervention. All of them explained the situation of submission and undermining of their personal dignity and even their freedom of movement and choice of company other than for purely lucrative purposes, sometimes being penalised when they did something outside the orders received. The expert reports into the minors indicated the state they were in some time after their rescue, referring to their mental state as indicative of post-traumatic stress, furthermore explaining the informed minors' vulnerability and lack of self-esteem as a result of their captors' activity, as well as their prior victimisation in their country of origin, also explaining how that prior victimisation fostered their subsequent submission. We point to the considerations described in the basis concerning evaluation of the proof, which makes special reference to the content of this medical and psychological expert evidence. It seems reasonable to set the liability for such activity based on the specific role those on trial played to attain their objective and on the amount of time the victims were subjugated, thus considering suitable the sum requested for each of them by the Public Prosecution Service to be 75,000 euros each."*

It is obvious that, if a series of offences are committed, the victim of the offences should be compensated for each of them.

Trafficking victims can only see their compensation reduced in exceptional cases (almost laboratory-like) in which they have *contributed with their behaviour to the damage or losses suffered* (contributory negligence). Only in such cases (normally bearing a relationship with connected offences) may *the judges or courts moderate the amount of reparation or compensation* (Art. 114 CP).

The judgments passed from 2017 to 2020 have granted the following compensations: • €1,500 (2 Nigerian women; 28 Russian women) • €2,000 (1 Venezuelan woman) • €3,000 (3 Brazilian women; 1 Nigerian woman; 5 Russian women; 1 Venezuelan woman and 1 Venezuelan man) • €4,000 (1 Brazilian woman; 1 Russian woman) • €4,500 (1 Brazilian woman; 1 Romanian woman) • €5,000 (1 Nigerian woman) • €6,000 (1 Bulgarian man; 9 Romanian women) • €6,420 (1 Bulgarian man) • €7,000 (1 Paraguayan woman) • €9,000 (4 Romanian women; 6 Venezuelan women) • €10,000 (6 Nigerian women; 3 Romanian women) • €12,000 (2 Nigerian women) • €15,000 (1 Nigerian woman) • € 20,000 (1 Moldovan woman; 7 Nigerian women; 4 Romanian women) • €25,000 (6 Nigerian women; 3 Romanian women) • €26,000 (1 Bulgarian woman) • €26,500 (1 Nigerian woman) • €30,000 (3 Nigerian women; 1 Romanian woman) • €33,150 (1 Venezuelan woman) • €33,200 (1 Romanian woman) • €35,000 (3 Nigerian women) • €36,000 (1 Spanish woman) • €40,000 (1 Nigerian woman; 1 Romanian woman) • €50,000 (11 Nigerian women) • €60,000 (1 Bulgarian women; 3 Nigerian women) • €61,000 (1 Nigerian woman) • €73,000 (2 Romanian women) • € 75,000 (1 Nigerian woman) • €70,000 (2 Nigerian women) • €75,000 (3 Nigerian women) • €82,600 (1 Nigerian woman) • €82,700 (1 Nigerian woman) • €90,000 (1 Bulgarian woman) • €100,000 (1 Nigerian woman) • €104,000 (1 Nigerian woman).

In the same period, 40 victims (1 Colombian woman, work-related; 1 Nigerian woman; 5 Romanian women; and 33 Russian women) were compensated before the sentence was handed down and 11 victims expressly waived compensation (1 Belarusian woman; 2 Brazilian women; 1 Bosnian woman; 1 Nigerian woman (partially); and 6 Romanian women).

### **3.3 How are compensation orders/verdicts enforced? What measures are in place to guarantee and ensure effective payment of compensation?**

When the obligation to compensate is part of the criminal guilty verdict, it is the judge or enforcement court that must see that it is fully executed in agreement with the provisions of Articles 125 et seq. of the Criminal Code.

In this regard, it should be determined whether or not the assets from civil liability (directly sentenced and/or subsidiary liability) are sufficient to meet the compensation. If they are not sufficient, the judge may establish payment in instalments (Art. 125 CP) and in any case priority is given to the payments to meet the victim's compensation (Art. 126 CP).

**Article 125 CP.** *When the assets of the party held liable under Civil Law Are not sufficient to pay all the monetary liabilities at once, the Judge or Court of Law, after hearing the injured party, may split up the payment thereof, setting the amounts and terms of the instalments according to his/her prudent criterion, the needs of the victim and the financial capacity of the party responsible.*

**Article 126 CP.** *1. Payments made by the convicted party or the party with subsidiary civil liability shall be applied in the following order: 1. To repairing the damaged caused and to compensating the losses; 2. To compensating the State for the amounts spent on the case; 3. To the costs of the personal or private prosecutor when payment thereof is imposed in the sentence. 4. To the other judicial costs, including those of defence of the accused, without preference among the interested parties. 5. To the fine. [...]*

### **3.4 When foreign victims of THB are removed from or choose to leave the country where the exploitation took place, what measures are in place to enable them to obtain compensation and other remedies?**

In the case of foreign victims of THB applying for asylum upon their arrival in Spain, they can benefit from the international protection accommodation system, in which they may remain for up to 24 months in the case of vulnerable persons. They will be given a personalised itinerary and will have a series of services available geared towards covering their needs, most notably: accommodation and maintenance, social assistance (processing the public health card, registration in the municipal census, schooling for minors, information about social services and resources, social and family mediation etc.), cultural orientation and contextualisation guidance, cultural and leisure activities, legal aid, psychological aid, translation and interpretation, occupational guidance and more.

If after the evaluation of this victim a specific resource is considered necessary aimed at victims or possible victims of trafficking, then they will be referred from the accommodation system to a specialised resource aimed specifically at assisting that profile of person. In this specialised resource, in addition to the aforementioned services, 24-hour assistance will be provided and legal and psychological aid specialising in trafficking, as well as other services.

Foreign victims of THB arriving in Spain irregularly via the coast who do not apply for asylum will be assisted within the programme of humanitarian assistance, where they may remain for up to 24 months due to being vulnerable persons. In this programme, the victims will have a series of services available geared towards covering their basic needs, most notably: accommodation and maintenance, personal

hygiene and washing materials, healthcare, psychological support, information, orientation, social support and consultancy, language and literacy courses and workshops, and more.

As in the above circumstances, if after the evaluation of this victim a specific resource is considered necessary aimed at victims or possible victims of trafficking, then they will be referred from the accommodation system to a specialised resource aimed specifically at assisting that profile of person. In this specialised resource, in addition to the aforementioned services, 24-hour assistance will be provided and legal and psychological aid specialising in trafficking, as well as other services.

**3.5 What procedures are in place to ensure effective access to compensation for victims of THB for the purpose of labour exploitation? Can such victims bring civil claims for compensation and/or recovery of unpaid wages and social contributions on the basis of tort, labour, employment or other laws? Please specify the relevant measures. Can victims of THB working in irregular employment or without a contract claim unpaid wages and other compensation and if yes, how is the amount of unpaid wages and other compensation established?**

The procedures for making claims are set out according to the provisions of [Law 36/2011 of 10 October regulating social jurisdiction](#). For its part, [Royal Legislative Decree 2/2015](#) of 23 October, approving the recast text of the Law on the Workers' Statute in its Art. 9, states that "*In the event that the contract is null and void, the worker may, for the work he or she has already provided, require the remuneration for a valid contract.*"

The ITSS (Work and Social Security Inspectorate), in keeping with Art. 12.1 of [Law 23/2015 of 21 July on the Structure of Labour and Social Security Inspection](#), contains among its provisions the function of vigilance and demanding compliance with the rules in the matter of work by foreigners. As such, as a result of ITSS activities, penalty procedures may be initiated in matters of foreigners in accordance with Art. 50 et seq. of Organic Law 4/2000 of 11 January on the rights and freedoms of foreigners in Spain and their social integration.

It should be taken into account that facts confirmed by the Work and Social Security inspectors or by the acting Sub-Inspectors of Employment and Social Security that are formalised in the infringement notification, observing the legal requisites, will be presumed certain with no detriment to evidence that the interested parties may provide in defence of their rights, in accordance with the provisions of Art. 151.8 of Law 36/2011 of 10 October.

**3.6 What training is provided to build the capacity of relevant professionals, such as lawyers, law enforcement officers, prosecutors and judges, to enable victims of THB to obtain compensation and other remedies?**

Training law enforcement in matters of trafficking of human beings is carried out on three levels. Firstly, on an internal level, it is aimed at training the police officers themselves. There is basic training about trafficking for new officers and training with greater specialisation, with studies aimed at matters designed specifically to learn the terminology and meaning of trafficking in human beings and a description of the indicators necessary to detect victims, as well as procedures for referral to Trafficking Crimes Investigation Specialists, who will formally identify victims. This internal training focuses on providing a specific response in accordance with the criminal reality, concentrating on human rights, assistance, protection and recovery for the victims and on investigation to dismantle the criminal structures dedicated to trafficking, with special emphasis on the goods, earnings and the effects of the offence, which helps towards creating true specialists in the subject.

The second level is implemented with parties from outside law enforcement such as the Public Prosecutor for Foreigners, the Spanish State Ombudsman's consultant in matters of Trafficking in Human Beings, staff from the Counter-Terrorism and Organised Crime Intelligence Centre (CITCO), representatives from NGOs, Employment and Social Security Inspectors, and Interior Ministry Attachés in the embassies in Madrid from countries that may be considered as sources of victims. Apart from theoretical training, the attendees at these workshops carry out practical work to develop their knowledge, using the tools from the [ISEC project](#) to detect and identify victims.

The third level involves international training for officers specialising in matters of trafficking by means of participation in international forums (UN, OSCE, EU etc.) and courses (CEPOL, OSCE, etc.).

Training for judicial staff in the matter of trafficking of human beings is carried out in different stages and ways.

#### a) Initial Training

This includes specific training in the matter of trafficking of human beings for all people who are candidates to enter the judicial profession as part of the obligatory educational curriculum they must pass in order to finally enter the judiciary. As such:

It includes a specific topic within the subjects for exams to enter the judicial profession dedicated to trafficking in human beings.

Once they have passed the public entrance exam, within the theoretical and practical education being given in the Judicial College, content is included that is related to the criminal offence of trafficking in human beings throughout the standard education in the criminal sphere (studying the crime, assistance and protection for victims provided for in the Standing of Victims, tools for financial investigation, seizure and confiscation of assets etc.). This education is given by standard teaching staff in the Judicial College.

A specific seminar is included in the Judicial College's syllabus that lasts a week, exclusively concentrating on in-depth study of the trafficking of human beings and the various matters that can arise with regard to investigating and judging this specific criminal offence. It is a multidisciplinary seminar given by experts in the trafficking of human beings from different sectors related to the administration of justice (judiciary, public prosecution, law enforcement bodies and specialist NGOs).

#### b) Ongoing training

Training in the subject of the trafficking of human beings for people who are already in the judicial profession is carried out in the following ways:

Every year the Judicial Profession's Ongoing State Training Plan includes single-subject training activities in the trafficking of human beings that last 15 hours and are aimed at the entire judicial profession. These courses' content is similar to the specific seminar given in the Judicial College, with people participating from other bodies and institutions, which enables the judges to be provided with a plural, multidisciplinary perspective of the phenomenon of trafficking in human beings, going beyond a purely technical and legal analysis. In all of these activities, as well as those carried out in the Judicial College, entities take part from the third-party sector specialising in aiding trafficking victims, giving a perspective of the criminal offence and phenomenon from the victims' point of view. Over the last four years there have been six monographic activities in 2018 (137 attendees in total), two in 2019 (60 attendees), two in 2020 (59 attendees), one activity in 2021 and four activities to study essential aspects for investigating the criminal offence such as technological investigation or investigation of assets.

Currently cross-subject content is also included that is related to trafficking in human beings in other educational activities focusing on various matters. Every year, cross-subject content is introduced about trafficking in human beings on average in 10 educational activities dedicated to matters such as the Standing of Victims, investigation into assets, technological investigation, cybercrime, organised crime, confiscation, calculation of compensation in criminal procedures, asylum and laws on foreigners. Hence, specific training in the matter of trafficking in human beings reaches a great many members of the judicial profession, branching into studies of other skills or subjects directly related to investigating and prosecuting the criminal offence of trafficking or to the administrative processing of trafficking victims.

c) [Guide of criteria for judicial action on trafficking in human beings](#)

The principle of judicial independence means that it is not possible to give judges instructions on how they should exercise their judicial functions, much less on the decisions they should take in specific cases. Hence, any activity intended to be rolled out in the sphere of the judiciary must take the form of recommendations or good practices. The *Guide of criteria for judicial action against trafficking in human beings*, written and approved by the General Council of the Judiciary in 2018, is a complete catalogue of recommendations and good practices aimed at members of the judiciary to investigate and judge criminal cases involving trafficking in human beings in all of its manifestations, and to process and decide on related judicial procedures of an administrative nature (notably procedures involving foreigners and asylum). Furthermore, the guide contains a long section aimed at explaining the true transcendence and extent of this criminal phenomenon in order to carry out work of informing and raising awareness, and another long section to inform and facilitate international judicial cooperation in this matter. The guide has also been disseminated electronically throughout the judicial profession and has been published on paper (a book) and distributed to all judicial bodies in the criminal and administration (government) legal system, as well as to all of the Public Prosecution Service's specialised delegations. Currently the publication is about to be distributed among the bar associations.

#### 4. State compensation (Article 15)

##### **4.1 Do the eligibility criteria for State compensation schemes for victims of crimes exclude some victims of THB (e.g. due to irregular residence status, nationality, nature of the offence)? Does access to State compensation depend on the outcome of the criminal case and on failure to obtain compensation from the offenders?**

In the Spanish legal system, like any victims of a criminal offence, victims of THB have recognised rights in Law 4/2015 of 17 April on the Standing of Victims of Crime, with specifics for trafficking victims.

Said law recognises a series of procedural and extra-procedural rights for all victims of crime, providing a legal and social response for victims and their relatives, as well as specific aid for the most vulnerable victims such as trafficking victims and minors.

Thus, no victims of any criminal offence are excluded from the State's compensation systems, nor victims of terrorism due to any circumstance (not due to irregular residence, nationality, nature of the offence, etc.).

In principle, the right to compensation requires recognition by virtue of a final sentence, after the corresponding judicial procedure if the accused is thus condemned, with no detriment to the possible right to obtain economic aid in accordance with the legislation in force.

For example, Law 35/1995 of 11 December on economic aid and assistance for the victims of violent crimes and crimes against sexual freedom sets out a system of public aid for the direct or indirect victims

of fraudulent or violent crimes committed in Spain resulting in death, grievous bodily harm or serious harm to physical or mental health. They also benefit from these rights as victims of criminal offences against sexual freedom even when they are perpetrated without violence.

When the economic aid has been granted, the State will subrogate, with full rights until the full amount of the provisional or definitive aid has been paid to the victim or the beneficiaries, in the rights they have against the party obliged by civil law due to the criminal activity. The State can act as a party in the criminal or civil procedure being followed, with no detriment to the civil action taken by the Public Prosecution Service.

#### **4.2 How is the amount of State compensation calculated so as to address the gravity of the harm endured by the victim?**

The compensation is calculated in the same way as for other victims, taking into account the psychological, psychiatric, medical and forensic reports included in the judicial procedure. Even so, the aforementioned Law 35/1995 of 11 December specifies some criteria to determine the amount of aid.

#### **4.3 Is it possible for foreign victims of trafficking to submit claims for State compensation in your country after being returned or repatriated to their countries of origin? Please provide examples of any such cases and indicate the measures stipulating such a possibility.**

Foreign trafficking victims can apply for compensation from the State after being returned or repatriated to their countries of origin.

Organic Law 4/2000 of 11 January on the rights and freedoms of foreigners in Spain and their social integration and Royal Decree 557/2011 of 20 April approving the Regulations to Organic Law 4/2000 on the rights and freedoms of foreigners in Spain and their social integration (after its reform by Organic Law 2/2009) establish a "special administrative standing" for foreign victims (whether legal minors or adults):

- ✓ The competent authorities shall take the necessary measures to identify trafficking victims according to the provisions of the [Convention of the Council of Europe of 2005 on Action against Trafficking in Human Beings](#). When it is deemed that there are rational reasons to believe that a foreigner in an irregular situation has been the victim of trafficking in human beings, they shall inform them of their rights adequately and understandably.  
To do so, as with other foreigners, they have the right to receive information in a language they understand and the assistance of an interpreter.
- ✓ The right to a period of ninety days for recovery and reflection is recognised, during which they will be provided with physical, psychological and emotional recuperation, as well as separation from the influence of the presumed traffickers, so that they can take a meditated and balanced decision on whether to cooperate with the authorities on investigating and prosecuting the perpetrators of the criminal offence.  
During such periods, if the person is in an irregular situation, disciplinary proceedings shall not begin in this regard and the administrative disciplinary proceedings will be suspended if they have begun, or if applicable the execution of an eventually agreed expulsion or return.  
Furthermore, during the period of recovery and reflection they will be authorised for temporary stay and the competent administrations will ensure the subsistence and if necessary safety and protection of the victim and their children who are minors or have a disability and who are in Spain at the time of identification.
- ✓ The victim can be declared exempt from administrative responsibility and can be provided, if they so choose, with assisted return to their country of origin or authorisation for residency and work

due to exceptional circumstances when it is considered necessary due to their cooperation for the purposes of investigation or criminal prosecution, or to address their personal situation, and help for their social integration. When the procedure for authorisation of residency and work due to exceptional circumstances has been solved, they can be given a provisional authorisation for residency and work.

- ✓ If they are not insured or beneficiaries of the National Health System, their right to healthcare is recognised with the extension provided for in the basic common set of care services in the National Health System.

#### **4.4 Are victims seeking State compensation liable for lawyers' costs and fees? Are State compensation awards subject to taxation? Does the receipt of compensation have consequences for access to social security or other benefits?**

Victims of THB have the right to free legal aid and are exempt from payment of fees with no need to prove they lack sufficient funds to litigate, according to the provisions of Law 1/1996 of 10 January on free legal assistance, amended by [Royal Decree Law 3/2013 of 22 February, which modifies the regime of fees in the sphere of the Administration of Justice and the system of free legal aid](#).

As for compensation that can be recognised for them, the economic aid granted to violent crime victims is exempt from tax as mentioned in Law 35/1995, as well as the aid provided for in Organic Law 1/2004 on Comprehensive Protection Measures against Gender Violence, and other economic public aid given to gender victims by virtue of that status and standing.

Benefitting from this aid does not entail consequences in accessing social security or other benefits.

### **5. Sanctions and measures (Article 23)**

#### **5.1 Please describe the legislative and other measures adopted by your country which allow to: i) confiscate or otherwise deprive perpetrators of the proceeds of criminal offences, or property of an equivalent value to those proceeds; and ii) identify, trace, freeze or seize rapidly property which is liable to confiscation, in order to facilitate the enforcement of a later confiscation. Do these measures allow the identification, tracing and seizure of property into which the proceeds of illicit activities have been converted?**

As a basic guide to the legislation, the following provisions enable fast identification, tracking and confiscation of proceeds that are the result of illicit activities:

- ✓ Decision 2007/845/JAI of 6 December 2007 on cooperation between Member State bodies to recover assets in the field of tracing and identification of proceeds from, or other property related to, crime.
- ✓ Directive 2014/42/EU of 3 April 2014 on the freezing and confiscation of instrumentalities and proceeds of crime in the European Union.
- ✓ Criminal Procedure Act Art. 367 septimus and Additional Provision Six, referring to the Office for Seizure and Handling of Assets; Art. 367 bis to septimus, regulating the destruction and realisation of goods in advance; and finally, the procedure for autonomous confiscation in Art. 803 tertius *et seq.*
- ✓ Criminal Code: Art. 127 to 129 bis on ancillary consequences.
- ✓ Royal Decree 948/2015 of 23 October, regulating the Office for Asset Recovery and Management.
- ✓ Council Framework Decision 2006/960/JHA of 18 December on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union.
- ✓ Law 31/2010 2006/960/JHA of 27 July on simplifying the exchange of information and intelligence between law enforcement authorities of the Member States of the European Union.

**5.2 In what way do victims of THB benefit from seized and confiscated assets of perpetrators of THB? Do the confiscated assets go directly to victims, to a compensation fund or scheme for victims of trafficking or to other programmes for the assistance or support of victims of THB? Please provide information on seizures and confiscations of assets in THB cases and how they were used.**

THB crimes are included in the list in Art. 127 bis a) of the Criminal Code, within the sphere of extended confiscation, by which the proceeds from confiscation of goods, whether they are registered as possessed or those subject to transformation (Art. 127 CP), and which have been located anywhere in the world, can be used, upon being confiscated in a final judgment, to satisfy the purposes of public interest described in Art. 2 of Royal Decree 948/2015, which includes assistance for the victims and more. These amounts are distributed through the Adjudication Committee for the proceeds of crime, provided for in Art. 8 of the aforementioned decree and in the way set out in the regulations mentioned.

**5.3 Is it possible to use plea bargaining or some other form of settlement in cases of THB? If yes, please provide the relevant provisions. What protections are in place for victims of THB to ensure that their right of access to justice and effective remedies is not compromised by the plea bargaining or settlement in the legal process?**

**Plea-bargained sentences.** In Spanish Criminal Procedure, the **concept of plea bargaining** is verified in combination with the perpetrator's confession or recognition of the facts.

In **ordinary procedures**—though it is not recognised in the strict sense—Article 695 of LECrim states that: *"If criminal liability is accepted [by the accused], but not civil liability, or, accepting the latter, the amount set in the classification is not agreed to, the Court will order the trial to continue. However, in this latter case, deliberations and the production of evidence will focus on the facts relating to the civil liability that the accused has not admitted, in accordance with the conclusions of the classification. Once the hearing has concluded, the Court will pass sentence."*

In the **fast-track procedure**, a sentence can be handed down in accordance with 787 LECrim if the punishment requested by the Public Prosecutor is no greater than six years, with the provisions in the aforementioned Article 695 LECrim (Art. 758 LECrim) applicable.

**Art. 787 LECrim.** *1. Before the evidence is examined, the defence, with the conformity of the accused present, may ask the Judge or Tribunal to pass sentence in accordance **with the accusatory pleading containing the most serious punishment**, or with the one submitted in the proceedings, which cannot refer to a different fact or contain a more serious classification than that of the previous accusatory pleading. If the punishment is not more than six years in prison, the Judge or Court will pass sentence in accordance with the one put forward by the defence, if the requirements provided for in the following paragraphs are met. 2. If, from the description of the facts accepted by all the parties, the Judge or Court understands that the classification accepted is correct and the punishment is appropriate according to that classification, they will pass sentence accordingly. The Judge or Court will, in any case, have heard the accused with regard to whether their conformity was freely given and with awareness of the consequences. 3. If the Judge or Court considers the classification made to be incorrect or deems that the punishment requested is not legally appropriate, they will summon the party which submitted the most serious accusatory pleading to state whether or not they ratify it. The Judge or Court may only pass a plea-bargained sentence where the party summoned amends their accusatory pleading in such terms so that the classification is correct and the punishment requested is appropriate and the accused once again is in conformity. Otherwise, the trial will be ordered to continue. 4. Once the defence declares its conformity, the Judge or President of the Court will inform the accused of its consequences and afterwards will request that they make a statement giving their conformity. Where the Judge or Court harbour doubts as to whether the accused has given their conformity freely, the trial will be ordered to continue. The trial may also be ordered to continue where,*

*notwithstanding the conformity of the accused, their defence considers it necessary and the Judge or Court deems that their request is grounded. 5. Conformities on the adoption of protection measures in cases of limitation of criminal liability are not binding on the Judge or Court. 6. The plea-bargained sentence will be passed verbally and will be documented in accordance with the provisions of Paragraph 2 of Article 789, without prejudice to its subsequent editing. If the public prosecutor and the parties, when the judgment is made known, express their decision not to appeal, the judge will verbally declare the sentence to be final and, having heard the parties, will pronounce on the dismissal or substitution of the punishment imposed. 7. Appeals can only be made against plea-bargained sentences when they have not respected the requirements or terms of the settlement, and the accused may not contest their freely given conformity on substantive grounds. 8. Where the accused is a legal entity, their conformity must be given by their specifically designated representative, provided they have a special power of attorney. Such conformity, which will be subject to the requirements detailed in the above paragraphs, may be given regardless of the stance taken by the other accused parties, and its content will not be binding in the trial held in relation to the latter.*

**Supreme Court Judgment (STS) 22/7/2015 (No. 448/2015)** states: *In any case, with the accusation remaining within the parameters compatible with a settlement or plea bargain, the Court is bound by the conformity. And Article 787 says it shall order the trial to continue, having to underline that it is not authorised in this procedure, while on the other hand in the following one in the Court with a Jury it is permitted to assess whether there are reasons to not consider the prosecuted fact was perpetrated (Article 50 of the Organic Law on Jury Courts (LOTJ)). This can certainly be proclaimed **as regards criminal punishment**, but if in spite of that there is a **manifest discrepancy about the intention to declare civil liability**, then this should be the type of procedure, as arises from Article 758 and the provisions of 695 in the Criminal Procedure Act. In other words, the continuation of the trial and the "discussion and production of evidence will specify the legal liability not admitted" by the accused...*

For lesser misdemeanours (which is not the case of trafficking), there are other types of settlements or plea bargains regulated in Articles 795 and 811 of the LECrim.

The general system of our criminal procedure (the exercise as a whole of criminal and civil action; intervention by the victim as a party in the proceedings; the public prosecutor's obligation to request civil liability for the accused unless the victim expressly waives it etc.) makes it impossible to agree any settlement or plea bargain that may damage the victims' interests.

If the victim of a criminal offence is an active party in the procedure participating as private accusation, any settlement or plea bargain will be made with the request the victim has made via their lawyer if it is the most serious of the ones requested. The victim cannot be affected by any statement in the sentence regarding the civil liability if the legal action has been reserved or the accused does not accept the request they have formulated regarding compensation; in such a case, the trial will progress with the sole aim of hammering out the civil liability.

Finally, an appeal may be made to the higher judicial instance against any decision that the party deems damaging to its interests.

#### **5.4 What is the average duration of court proceedings in THB cases? In which circumstances are such cases given priority? Do you have a system to fast-track human trafficking-related prosecutions in order to improve the trial process and reduce the burden on victims and witnesses, including children? What safeguards are in place to ensure that judges deal with cases of THB without undue delay?**

Using as a model the data obtained from judicial cases that have ended in sentences with convictions handed down from 2017 to 2020, the mean duration of trials for crimes of trafficking in human beings (including the investigation, intermediate phase and trial) is 3 years, though it commonly takes 2 years. The two that have lasted the longest are one that took 9 years (Brazilian sex trafficking) and another 11

years (sex trafficking by organised crime with coparticipants of 7 nationalities); whereas those that lasted the least took 1 year (trafficking for the purpose of begging and forced marriages).

All criminal procedures are subject to the principle of the statute of limitations for undue delays. It is a *sine qua non* condition for all fair trials that benefits all the parties in the proceedings (accused and victim) as well as society in general.

As regards the investigation of criminal cases, **Article 324 LECrim** generally states that: "*1. The judicial investigation will take place during a maximum period of twelve months as of the order to commence pre-trial proceedings or preliminary investigations. Nevertheless, before this deadline expires, the judge on their own authority or at the request of a party and after hearing the parties, may agree successive extensions for periods of no more than six months. These extensions will be adopted by means of an order that will explain the reasons that have impeded the investigation from being completed on time, as well as the specific proceedings it will be necessary to carry out and their relevance to the investigation. Where applicable, rejection of the extension will also be agreed via a reasoned decision. 2. The investigative proceedings agreed before the deadline or its extensions shall be valid, even if they are received after it has expired. 3. If, before the deadline or one of its extensions has elapsed, the investigating judge has not issued the decision referred to in Section 1, or if it has been revoked due to an appeal, the proceedings agreed as of said date shall not be valid. 4. The judge shall conclude the enquiry when he/she understands that it has achieved its purpose. After the deadline or its extensions, the investigating judge will issue an order to conclude the proceedings or, in the fast-track procedure, the appropriate decision.*"

The duration of the judicial proceedings (and their resulting extensions) depends on a multiplicity of factors, ranging from ones that give rise to different types of investigation (reactive, proactive and dismantling), the characteristics of those investigated (organised crime or individuals), the need to use special techniques that imply interference in fundamental rights (phone interceptions, entries and searches, computer surveillance, etc.), the unavoidable demand for international cooperation (often impossible) and those that call for investigations into assets not only in Spain but also in other States, etc.

The greater or lesser duration of a criminal case aimed at achieving a conviction handed down with complete guarantees after holding a fair trial *with no undue delays* does not need to cause the victims harm or damages; what is relevant for them is that while the judicial activities are being processed—within and outside the procedure—they are under a comprehensive protection regime that not only ensures their safety and recovery but also prevents any hint of revictimisation.

This has been achieved largely via good practices and legal provisions to significantly prioritise safeguards to rescue, free and recover the victim over and above the success of an investigation (the investigators and the Public Prosecution Service are subjected to this principle) by the publication of Law 4/2015 of 27 April, which created a complete victim's statute (transposition of Directive 2012/29/EU of the European Parliament and of the Council of 25 October 2012 establishing minimum standards on the rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA) and which, albeit general in nature, also takes into account the condition of the trafficking victims when individually assessing each of them in order to determine their specific needs for protection (Art. 23 EV); and also over and above the way statements are taken down (by Art. 25 letter d EV, in any case following the provisions of Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA).

Aside from the provisions of Article 324 LECrim, the only factor that calls for more *urgent, priority and preferential* processing if possible of a criminal procedure for a serious crime (as is the case of trafficking of human beings) is if provisional prison has been decreed for those charged, since it affects the absolute fundamental right of freedom (Art. 17 CE) and to comply with the strict deadlines provided for by the legislator (Art. 504 LECrim).

In Spain, the existence of police corps (in the National Police, Civil Guard and regional autonomous police forces) specialising in combating trafficking exclusively or quasi-exclusively, as well as a specialised Public Prosecution Service, helps foster “accelerated” investigation and judging of these criminal cases.

### **5.5 How do you ensure that sanctions for THB offences are effective, proportionate and dissuasive?**

The **basic types of crime in trafficking of human beings**, after the revision of the Criminal Code in 2010, are punishable by Article 177 bis CP with sentences of 5 to 8 years of prison; the aggravated sub-types can carry sentences of up to 12 years in prison (endangering the life or the physical or mental integrity of people subjected to the crime; if the victim is especially vulnerable due to illness, state of pregnancy, disability or personal situation, or if they are a minor; abuse of public functions; criminal organisation).

It is obvious that it is a crime punishable (according to our penal system) very seriously (consider that as many punishments are imposed as victims recognised in the sentence, added to those for connected crimes for which the perpetrator has been convicted that are also considered in conjunction with trafficking). For example, an individual convicted of three crimes of trafficking at the same time as many others of coerced or abusive prostitution (if there are three victims) could be convicted to a minimum of 21 years and 9 months in prison, which would increase considerably if there are aggravating circumstances (in any case limited to three of the most serious provided for in Article 76 CP).

#### **Sentences handed down to those convicted of trafficking 2017-2020:**

- ✓ **Facts prosecuted in keeping with the legislation prior to 2010:** • 10 months: 1 Spanish man (accomplice) • **1 year and 4 months:** 1 Spanish man • **1 year and 5 months:** 1 Spanish man • **1 year and 6 months:** 1 Russian man; 1 Portuguese man • **1 year and 8 months:** 1 Brazilian woman; 2 Spanish men; 2 Russian men • **2 years:** 1 Spanish man; 1 Nigerian man; 3 Russian men • **2 years 15 days:** 2 Spanish men • **3 years:** 2 Albanian men; 1 Spanish man • **4 years 6 months:** 1 Nigerian man • **4 years and 8 months:** 1 Brazilian woman; 1 Spanish man • **5 years in prison:** 1 Belarusian woman; • **6 years and 6 months:** 1 Nigerian man • **8 years and 9 months:** 1 Brazilian woman.
- ✓ **Facts prosecuted in keeping with the legislation after 2010:** • **1 year:** 1 Nigerian man (cover-up) • **1 year and 6 months:** 4 Nigerian men (accomplices) (delays) • **1 year and 9 months:** 6 Bulgarian men (mitigating circumstances) • **1 year and 10 months:** 1 Colombian woman (qualified mitigating factor) • **2 years:** 1 Spanish man; 3 Nigerian men (accomplices); 16 Romanian men (mitigating redress) • **2 years 3 months:** 1 Bulgarian man (mitigating circumstances) • **2 years and 6 months:** **1 Nigerian man (damage redress)** • **3 years:** 1 Ghanaian woman (conspiracy); 1 Moldovan man • 3 years 9 months 1 day: 1 Spanish man (mitigating circumstances) • **4 years:** 3 Nigerian men (2 redress) • **4 years and 1 day:** 4 Romanian men (avoidable mistake); 1 Nigerian man • **4 years and 3 months:** 1 Nigerian (redress) • **4 years 9 months:** 1 Bulgarian man • **5 years in prison:** 1 Cameroonian man; 1 Spanish man; 5 Nigerian men; 2 Romanian men • **5 years and 1 day:** 3 Nigerian men • **5 years 1 month:** 2 Nigerian men • **5 years and 2 months:** 1 Paraguayan woman • **5 years 3 months:** 2 Bulgarian men • **5 years and 2 months:** 1 Nigerian man • **5 years and 3 months:** 1 Romanian man • **5 years and 7 months:** 1 Nigerian man • **5 years and 1 day:** 3 Nigerian men • **6 years:** 1 Spanish man; 8 Nigerian men • **6 years and 1 day:** 1 Romanian man • **6 years and 1 day:** 1 Romanian man • **6 years and 6 months:** 5 Nigerian men • **6 years 8 months:** 1 Venezuelan man • **6 years and 9 months:** 1 Romanian man • **7 years:** 4 Nigerian men; 1 Paraguayan woman; 1 Romanian man • **7 years and 3 months:** 1 Romanian man; 1 Polish man • **7 years and 6 months:** 1 Nigerian man • **7 years and 8 months:** 2 Nigerian men; 1 Sierra Leonean woman • **7 years 9 months:** 2 Nigerian men • **8 years:** 4 Nigerian men • **8 years and 1 day:** 1 Nigerian man • **8 years and 3 months:** 1 Romanian man • **8 years and 6 months:** 3 Nigerian men • **8 years and 7 months:** 1 Spanish man • **8 years 10 months:** 2 Nigerian men • **9 years:** 1 Nigerian man • **9 years 3 months:** 1 Nigerian man • **10 years in prison:** 2 Bulgarian men; 1 Nigerian man • **10 years and 2 days:** 4 Nigerian men • **10 years 2 months:**

1 Nigerian man • **10 years 4 months**: 3 Bosnian men • **10 years 5 months**: 1 Nigerian man • **10 years and 6 months**: 1 Nigerian man • **10 years and 7 months and 15 days**: 1 Nigerian man • **11 years and 2 months**: 1 Spanish man • **11 years 6 months**: 3 Nigerian men • **12 years and 6 months**: 2 Nigerian men; 1 Venezuelan man • **12 years 6 months 2 days**: 1 Romanian man • **13 years and 2 days**: 1 Romanian man • **13 years 1 month**: 1 Nigerian man • **13 years 6 months**: 1 Nigerian man • **14 years and 1 day**: 1 Nigerian man • **14 years and 2 months**: 1 Nigerian man • **14 years and 6 months**: 2 Nigerian men • **14 years 10 months**: 1 Spanish man; 1 Venezuelan man • **15 years 9 months 3 days**: 2 Venezuelan men • **16 years and 2 days**: 1 Nigerian man • **16 years 2 months 31 days**: 1 Romanian man • **16 years 4 months and 2 days**: 1 Romanian man • **17 years 10 months**: 1 Venezuelan man • **18 years 10 months**: 1 Venezuelan man • **19 years**: 2 Nigerian men • **20 years**: 2 Bulgarian men; 2 Romanian men • **22 years in prison**: 1 Romanian man • **22 years and 3 months**: 1 Nigerian man • **23 years**: 1 Nigerian man • **24 years and 2 days**: 2 Nigerian men • **25 years and 2 months**: 4 Nigerian men • **26 years**: 1 Bulgarian man • **28 years and 3 days**: 1 Nigerian man • **29 years**: 1 Bulgarian man • **31 years**: 2 Romanian men • **35 years**: 1 Nigerian man • **35 years 6 months**: 1 Nigerian man • **37 years 3 months**: 4 Nigerian men • **53 years 7 days**: 1 Romanian man • **55 years 7 days**: 1 Romanian man.

## 6. *Ex parte* and *ex officio* applications (Article 27)

### 6.1 What is the procedural position of a victim of THB in criminal proceedings? What steps are taken to assist victims of THB, including children, to enable their rights, interests and views to be presented and considered during the criminal proceedings against offenders? Who is entitled to assist victims of THB in court? Can victims of THB be represented by NGOs in criminal proceedings?

In the Spanish legal system, as with any victims of a criminal offence, victims of THB have rights recognised in **Law 4/2015 of 17 April on the Standing of Victims of Crime**, with specifics for trafficking victims. Said law recognises a series of procedural and extra-procedural rights for all victims of crime, providing a legal and social response to victims and their relatives, as well as specific aid for the most vulnerable victims such as trafficking victims and minors.

Victims of THB have the right to appear in the criminal trial as private prosecution with their own professional legal aid. To do so, they have the right to free legal aid and are exempt from payment of fees with no need to prove insufficient funds to litigate, according to the provisions of Law 1/1996 of 10 January on Free Legal Assistance, amended by Royal Decree Law 3/2013 of 22 February.

However, as with any other crime of a public nature, regardless of whether or not they appear in the criminal trial, the Public Prosecution Service will in any case foster action by justice in defence of legality, the rights of citizens and the public interest protected by law, thus ensuring the procedural protection of all victims and injured parties, fostering implementation of aid and assistance mechanisms.

In principle, NGOs cannot represent victims in criminal proceedings, with no detriment to the fact that, in their case, their appearance in the criminal trial as private prosecution by an unaffected civil party may be requested and admitted, with the requirements and conditions established by the Law.

Victims of human trafficking have the same rights as any victim of a crime. As mentioned above, they can become a party as private accusation in the procedure under the same conditions as any other prosecuting or defending party (Art. 100 et seq. LECrim and Art. 11 EV) using a court representative and duty lawyer to represent them and give them legal assistance (Art. 2 LAJG).

Title II of the Standing of Victims, under the heading "Participation by victims in criminal proceedings", describes a variety of all-encompassing rights for all parties in the proceedings. Furthermore, Art. 11 on the right to be an active party in the proceedings gives victims the right *to be heard by the authorities responsible for the investigation to provide them with evidence and any information they consider relevant*

*to clarify the facts*; Art. 12 (on the victim's request for notification and review of a decision not to prosecute) prevents the possibility of any fact in the investigation reported by the victim being dismissed without the victim's knowledge, and they may also appeal against the court orders issued in the investigation to close the case; Art. 13 gives the victim a significant role in checking on the execution of the sentence, application of penitentiary privileges and other relevant aspects. Since trafficking victims have the right to free legal aid, Art. 14 EV is not applicable to them, nor Article 17 EV. Given the nature of the crime, the services of restorative justice in Article 16 are hardly applicable, either.

As mentioned above, Article 21 c) EV, "*The victims may be accompanied by, in addition to their procedural [court] representative and where applicable their legal representative, a person of their choice, while the procedures in which they must take part are being carried out, unless the public official or authority responsible for carrying out the procedures to ensure they are carried out properly rules otherwise with reasons.*"

Nothing hinders victims from being assisted and represented by a lawyer of their choice whose fees are paid outside the free legal aid. Such a lawyer may belong to the legal services of an NGO. In any case, the sentence can decide for the cost of the freely appointed lawyer's fees to be included in the costs of the proceedings (Article 12.3 CP).

## **6.2 If the authorities fail to discharge their obligation to effectively investigate and prosecute suspected cases of trafficking, what possibilities for redress exist for victims of THB and their families? To what extent have victims of trafficking, including children, access to complaint mechanisms, such as Ombudsman institutions and other national human rights institutions?**

In principle, the right to compensation requires recognition by virtue of a final judgment, after the corresponding judicial procedure if the accused is thus condemned. This is with no detriment to the possible right to obtain public aid in accordance with the legislation in force.

For example, Law 35/1995 of 11 December on aid and assistance for the victims of violent crimes and crimes against sexual freedom sets out a system of public aid for the direct or indirect victims of fraudulent or violent crimes committed in Spain resulting in death, grievous bodily harm or serious harm to physical or mental health.

When the aid has been granted, the State will subrogate, with full rights until the full amount of the provisional or definitive aid paid to the victim or the beneficiaries, in the rights they have against the party obliged by civil law due to the criminal activity. The State can act as a party in the criminal or civil procedure being followed, with no detriment to the civil action taken by the Public Prosecution Service.

As for the possibility of submitting complaints to the Spanish State Ombudsman, it is necessary to point out that any citizen, whether Spanish or a foreigner, regardless of their age or legal situation in Spain, can turn to the Ombudsman. Moreover, they can do so at no cost, because addressing the Ombudsman is free of charge. One can also reside outside of Spain, be legally incapacitated or an internee in a penitentiary or detention centre and still turn to the Spanish State Ombudsman for help. An association or any other legal entity can also lodge a complaint.

The State Ombudsman acts with respect to legislation that could impair rights. The problems of the right to free legal aid and the appointed legal aid system are subject to attention, as well as the delays in civil, criminal, administrative and labour case proceedings, acting when there is a lack of personal or material means.

However, it should be remembered that in agreement with Article 13 of the law regulating it ([Organic Law 3/1981 of 6 April on the State Ombudsman](#)), *whenever the Ombudsman receives complaints regarding the functioning of the Administration of Justice, it must refer them to the Public Prosecution Service to allow the latter to investigate their grounds and take appropriate legal action, or else refer*

*them to the General Council of the Judiciary, depending on the type of complaint involved, independently of any reference that it may make to the matter in its annual report to Parliament.*

### **6.3 What reporting and complaint mechanisms are in place for victims of trafficking who are in an irregular migration situation and/or in detention?**

A victim of trafficking of human beings identified during a procedure has fully recognised rights as a victim of a criminal offence with no discrimination whatsoever. Their irregular or regular situation in Spain is irrelevant.

**Article 1 SV** is blatantly clear: *“The provisions of this law shall apply, subject to the provisions of Article 17, to the victims of offences committed in Spain or that may be prosecuted in Spain, regardless of their nationality, of whether they are of legal age or minors or **of whether or not they are legally resident.**”*

Most foreign victims (significantly women from Africa, Central and South America, Asia and States from the former USSR) are usually in Spain with irregular residence.

“In this vein, Organic Law 4/2000 of 11 January on the rights and freedoms of foreigners in Spain and their social integration and Royal Decree 557/2011 of 20 April approving the Regulations to Organic Law 4/2000 on the rights and freedoms of foreigners in Spain and their social integration (after its reform by Organic Law 2/2009) establish a “special administrative standing” for foreign victims (whether legal minors or adults):

- ✓ The competent authorities shall take the necessary measures to identify trafficking victims according to the provisions of the Convention of the Council of Europe of 2005 on Action against Trafficking in Human Beings. When it is deemed that there are rational reasons to believe that a foreigner in an irregular situation has been the victim of trafficking in human beings, they shall inform them of their rights adequately and understandably.  
To do so, as with other foreigners, they have the right to receive information in a language they understand and the assistance of an interpreter.
- ✓ The right to a period of ninety days for recovery and reflection is recognised, during which they will be provided with physical, psychological and emotional recuperation, as well as separation from the influence of the presumed traffickers, so that they can take a meditated and balanced decision on whether to cooperate with the authorities in investigating and prosecuting the perpetrators of the criminal offence.  
During such periods, if the person is in an irregular situation then disciplinary proceedings shall not begin in this regard and the administrative disciplinary proceedings will be suspended if they have begun or, if applicable, the implementation of an eventually agreed expulsion or return.  
Furthermore, during the period of recovery and reflection they will be authorised for temporary stay and the competent administrations will ensure the subsistence and if necessary safety and protection of the victim and their children who are minors or have a disability and who are in Spain at the time of identification.
- ✓ The victim can be declared exempt from administrative responsibility and can be provided, if they so choose, with assisted return to their country of origin or authorisation for residency and work due to exceptional circumstances when it is considered necessary due to their cooperation for the purposes of investigation or criminal prosecution, or to address their personal situation, and help for their social integration. When the procedure for authorisation of residency and work due to exceptional circumstances is complete, they can be given a provisional authorisation for residency and work.
- ✓ If they are not insured or beneficiaries of the National Health System, their right to healthcare is recognised “with the extension provided for in the basic common set of care services in the National Health System.”

**6.4 Can victims of THB bring claims against the State or its officials for: i) direct involvement in THB; ii) failure to prevent THB or protect them from THB? Have there been cases where State agents or persons acting on behalf, or at the direction, of the State were found responsible for engagement in THB and/or failure to prevent it or protect victims from THB by third parties? Please provide information on any prosecutions against diplomatic and consular staff for alleged involvement in THB.**

Trafficking in human beings is classified as a crime in Art. 177 bis of the Criminal Code, establishing an aggravation of the sentence for cases in which the perpetrator commits the crime taking advantage of their position of authority, an officer of such authority or public official. The sentence will be greater if they also belong to an organisation or association of more than two people, even of a temporary kind, which is engaged in activities of trafficking in human beings.

Nevertheless, there is no knowledge of any prosecution of diplomatic or consular staff due to their presumed participation in TBH. There was an investigation into a chauffeur of an African embassy.

In the four years analysed, no public official has been convicted as responsible for a crime of trafficking in human beings.

**6.5 What steps have been taken to strengthen and maintain the capacity of prosecutors to effectively prosecute trafficking cases?**

As has been mentioned, in Spain there is a Network of Public Prosecutors made up of 115 prosecutors (52 delegated prosecutors, 1 per province, 1 in the Public Prosecutor's Office in the National High Court, 1 in the Anti-Narcotics Public Prosecutor's Office, 17 in the Public Prosecutor's Offices; 17 Liaison Public Prosecutors in Area Prosecutors' Offices; 1 point of contact with AIAMP (Iberian-American Association of Public Prosecution Services) in matters of protection for victims of trafficking and 42 Affiliated Public Prosecutors) coordinated by the Immigration Unit of the General State Prosecutor who are assigned the functions to fight against human trafficking in a specialised regime. All reports opened by any of the judicial police officers operating in Spain (National Police, Civil Guard, Mossos d'Esquadra, Ertzaintza and any other autonomous regional police force) are coordinated by the Attorney General of the State's Office and closely monitored. For better coordination in the fight against trafficking, one inspector from UCRIF (Unit against Illegal Immigration Networks and Forgery) and one captain from the Civil Guard have been assigned to the Unit to foster coordination mechanisms with the investigating police. The same system is implemented by the Delegated Public Prosecutors of Barcelona and Bilbao in relation to the autonomous police of their territories (Catalonia and the Basque Country).

**7. Non-punishment provision (Article 26)**

**7.1 Please indicate what measures are taken to ensure that victims of THB, including children, are not punished for their involvement in unlawful activities (criminal, civil, administrative offences), to the extent they were compelled to do so, providing any concrete examples of their implementation.**

Article 177 bis CP, point 11 states: "*Without prejudice to the application of the general rules of this Code, the victims of trafficking in human beings shall be exempt from punishment for the criminal offences that may have been committed while suffering exploitation, provided that their participation therein has been a direct consequence of the situation of violence, intimidation, deception or abuse to which they have may been subjected and that there is adequate proportionality between said situation and the criminal act perpetrated.*"

Technically, this precept contains a reason for acquittal. Usually, with the concurrent circumstances in point 11 of said precept, the Public Prosecutor does not make an accusation for *the criminal offences committed in a situation of exploitation suffered*.

Examples: • **SAP (Judgment by Provincial Court) Madrid (Sec. 1) 12/21/2017 (No. 528/17)**: In this judgment, the accused is convicted of a crime of trafficking for the purpose of sexual exploitation, a crime against the rights of foreign citizens, a crime of illegal detention and a crime of forgery; the latter, for having provided the victim with a passport and a residence permit of another person with the photo of the victim in order to enter our country, although the woman is not accused or sentenced for committing this crime despite her participation in preparing the document by handing over the photograph and subsequently using it. • **SAP Murcia (Sec. 3) 7/17/2018 (No. 313/18)**: In this judgment, in which three people are convicted as responsible for a crime against the rights of foreign citizens, seven crimes of coercive prostitution and a crime against public health, and in which it is declared proven that the accused gave women who they exploited small amounts of cocaine so that they could offer them to clients as a service additional to providing sex, no accusation is made nor are they sentenced for the crime against public health, which they would have faced as distributors of the aforementioned narcotic substance, since they did so under the control of the convicted persons. • **SAP Oviedo (Sec. 2) 11/1/2019 (No. 5/19)**: In the trial hearing that preceded the aforementioned judgment, in the final conclusions, and after the trial had been held, the Public Prosecution Service withdrew the accusation against two women, initially accused of various crimes of trafficking for the purpose of sexual exploitation, who carried out tasks of control, surveillance and payment collection in relation to the other victims of the network who were exploited via on-site prostitution, since it was understood that they carried out such tasks at the same time that they themselves were forced to carry out escort and prostitution activities, due to the situation of mistreatment and continued violence to which they were subjected by two of the accused under whose orders they acted. • **SAP Barcelona (Sec. 8) 31/7/2019**: In this judgment, the parents and a brother of a minor girl are convicted for a crime of human trafficking in order to carry out criminal activities, stating that it has been proven that they brought the minor to Spain in order to engage her in committing criminal offences against assets (small-scale pickpocketing or shoplifting), with no legal action taken against her for those crimes since it is considered that she committed them while dependent on and subjugated by her exploiters.

## **7.2 Can persons who have breached national laws in the course, or as a consequence, of being trafficked have access to remedies for victims of trafficking, including State compensation?**

This question has been completely answered in Section 3. Art. 1 EV: "*The provisions of this law shall apply, subject to the provisions of Article 17, to the victims of offences committed in Spain or that may be prosecuted in Spain, regardless of their nationality, of whether they are of legal age or minors and of whether or not they are legally resident.*"

If they are victims of trafficking being processed by the judicial system, all of their rights remain intact. Normally, in order to arrive in Spain they have breached a multitude of national provisions on immigration and citizens' security; they have even committed crimes due to their situation as victims (previous section), but what prevails above all is their standing as a victim.

## **8. Protection of victims and witnesses (Articles 28 and 30)**

### **8.1 How are victims of THB protected in practice against potential retaliation or intimidation before, during and after legal proceedings? How is the assessment of the needs for protection performed and who recommends the application of the protection measures? Who is responsible for the implementation of the protection measures?**

With regard to ensuring THB victims are protected in practice against possible reprisals or intimidation during the judicial proceedings, the general provisions in Law 4/2015 of 27 April shall apply to victims of THB on the Standing of Victims of Crime, specifically in Article 21 on the protection of the THB victims during the criminal investigation. Similarly, it must be taken into account that, as provided for in the Framework Protocol for the Protection of Victims of Human Trafficking, adopted by agreement on 28 October 2011 by the Ministries of Justice; the Interior; Employment and Social Security and Health; Social Services and Equality; the Office of the Director of the Public Prosecution Service and the Council of the Judiciary, the public prosecutors will request, when applicable, the adoption of any of the measures

provided by Organic Law 19/1994 of 23 December on the protection of witnesses and experts in criminal cases, and the use of other means that help protect the victim in the trial hearing, such as the use of videoconferences for their statement.

For the provisions of the aforementioned Organic Law to be applicable, it will be necessary for the judicial authority to rationally deduce a serious danger for the freedom, property or the persons themselves who intend to seek the protection of said law for themselves, their spouses or person to whom they are linked by an analogous relationship of affection or their ascendants, descendants or siblings.

If a serious danger is detected, the investigating judge will agree with reasons, on their own authority or at the request of a party, when the judge deems it necessary considering the degree of risk or danger, to take the necessary measures to preserve the identity of the witnesses and experts, their home, profession and place of work, being able to adopt the following decisions:

- a) That their name, surname, address, place of work and profession or any other information that could be used to identify them, will not appear in the proceedings carried out, with the possibility of using a number or any other alias for this.
- b) That their appearance in person to carry out any proceedings shall use any procedure to make it impossible to visually identify them normally.
- c) That the headquarters of the acting judicial body be set as their home address for the purposes of summons and notifications, which will send them confidentially to the addressee.

Moreover, at the request of the Public Prosecution Service and throughout the entire trial, or if, once the process is over, the circumstance of serious danger continues, then the witnesses and experts will be provided with police protection where appropriate.

In exceptional cases they may be provided with documents of a new identity and financial means to change their residence or place of work.

Witnesses and experts may request to be taken to the judicial offices, to the place where some proceedings are to be carried out or to their home in official vehicles. Throughout the time they remain in said offices they will be provided with a space reserved for their exclusive use, appropriately guarded.

When assessing the needs for protection, the provisions of Art. 23 of the Standing of Victims regarding the individual evaluation of the victims in order to determine their special protection needs shall be used by the party who recommends that protection measures be applied and is responsible for applying them. It should be noted that the protection measures will be adopted after an assessment of the victim's particular circumstances. For victims of THB, said assessment will take into special consideration the nature of the crime and the seriousness of the harm and damages caused to the victim, as well as the risk of the crime being repeated and the victims' needs for protection, in addition to the characteristics of the victim, especially if it is a person with a disability or if there is a relationship of dependency between the victim and the alleged perpetrator of the crime, if they are victims who are underage or in need of special protection or for whom there are concurring factors of particular vulnerability and the circumstances in which the crime occurred.

The assessment of the THB victims' needs and the determination of the appropriate protection measures correspond during the investigation phase of the crime to the Investigating Judge or to the Judge of Gender Violence, without prejudice to the provisional evaluation and decision that must be carried out and adopted by the Public Prosecutor in their investigation proceedings or in the procedures subject to the Organic Law on the Criminal Liability of Minors, or the police officers acting in the initial phase of the investigations. During the prosecution phase, it is the Judge or Court hearing the case that assesses the needs and determines the protection measures (Art. 24 on the Standing of Victims).

As regards the work by the Crime Victims Assistance Offices in this sphere, it should be noted that Royal Decree 1109/2015 of 11 December, implementing Law 4/2015 of 27 April on the Standing of Victims of Crime, and regulating the Crime Victims Assistance Offices, in Art. 30 states that when the victim turns to the Crime Victims Assistance Offices, where appropriate with the information provided at the police

headquarters when making the complaint, they will carry out an individualised evaluation, with the Offices in any case following whatever is agreed by the competent judicial or public prosecution authority for assessing the needs of the victim and determining protection measures. This individualised assessment of THB victims will particularly evaluate the nature of the crime, the seriousness of the harm and damage caused to the victim and their protection needs.

After the individualised assessment process, the Crime Victim Assistance Offices can prepare a report with the victim's prior informed consent, which will be sent confidentially to the competent judicial or public prosecution authority to adopt the protection measures. In the report, measures may be proposed that include the victim being received as soon as possible, the least number of times and only when strictly necessary; that the victim may be accompanied by a person of their choice; that their statement should be taken by professionals with special training to reduce or limit harm to the victim, or with their help; and that the statement should be taken, in the case of THB victims, by a person of the same sex as the victim when they so request, unless this may significantly hinder the progress of the proceedings or the statement must be taken directly by a Judge or Public Prosecutor.

Finally, it should be noted that the Crime Victims Assistance Offices will implement a psychological support plan for victims who are especially vulnerable or in need of special protection, such as THB victims.

## **8.2 How do you ensure that victims are provided with realistic and practical information about the progress of the case and whether the perpetrator has been detained or released?**

Law 4/2015 of 17 April on the Statute of the Victim of Crime recognises that as of the victims' first contact with the authorities and public officials, including the moment prior to lodging the complaint (reporting a crime), they all have the right to receive, without unnecessary delay, information adapted to their personal circumstances and conditions and to the nature of the offence committed and the harm or loss suffered. This information must be updated at each stage of the proceedings to ensure that victims are able to exercise their rights.

The information shall address the following points:

- a) Available means of assistance and support, whether medical, psychological or physical, and the procedure for obtaining them.
- b) The right to lodge a complaint and, where applicable, the procedure for lodging the complaint and the right to provide the authorities responsible for investigating with evidence.
- c) The procedure for obtaining legal advice and defence and, where applicable, the conditions to be able to obtain them free of charge.
- d) The possibility of requesting protection measures and, if applicable, the procedure for doing so.
- e) Compensation to which they may be entitled and, if applicable, the procedure for claiming it.
- f) Interpretation and translation services available.
- g) Support and auxiliary services available for communication.
- h) The procedure by which victims can exercise their rights if they reside outside Spain.
- i) Appeals that may be lodged against decisions which victims consider to be contrary to their rights.
- j) Contact details of the authority responsible for dealing with the procedure and channels for communicating with that authority.
- k) Available restorative justice services, where legally possible.
- l) Circumstances in which expenses incurred in legal proceedings may be reimbursed and, where applicable, the procedure for claiming them.
- m) The right to request to be notified of the decisions issued in the criminal case. To that end, victims must designate, in their request, an email address or, failing that, a postal address or place of residence, to which communications or notifications from the authority are to be sent.

Hence, any victim who so requests will be informed of the date, time and place of the trial, as well as the content of the accusation against the offender, and they will be notified of the following decisions:

- a) A decision by which it is agreed not to initiate criminal proceedings.
- b) The judgment that puts an end to the procedure.
- c) Decisions that agree on the imprisonment or subsequent release of the offender, as well as the possibility of them escaping from custody.
- d) Decisions that agree to adopt personal precautionary measures or to modify those already agreed upon, when they have been intended to guarantee the victim's safety.
- e) Rulings or decisions by any judicial or prison authority that affect subjects convicted of crimes committed with violence or intimidation and that pose a risk to the victim's safety. In these cases and for these purposes, the prison management shall immediately notify the judicial authority of the decision adopted in order to notify the victim affected.

If the victim so requests, they will also be provided with information regarding the current situation of the proceedings, unless this could impair the proper progress of the case.

### **8.3 How do you ensure respect for the victims' right to safety, privacy and confidentiality during court proceedings?**

In accordance with Law 4/2015 of 17 April on the Standing of Victims of Crime, the authorities and officials in charge of the investigation, prosecution and sentencing of crimes will adopt the necessary measures, in accordance with the provisions of the Criminal Procedure Act, to guarantee the life of the victim and their next of kin, their physical and mental integrity, freedom, safety, sexual freedom and security, as well as to adequately protect their privacy and dignity, particularly when they give a statement or have to testify in a trial, and to avoid the risk of their secondary or repeated victimisation. In this vein, the Judges, Courts, Public Prosecutors and other authorities and public officials in charge of the criminal investigation, as well as all those who in any way intervene or participate in the process, shall adopt, in accordance with the provisions of the Law, the measures necessary to protect the privacy of all victims and their next of kin and, in particular, to prevent the dissemination of any information that may help identify victims in need of special protection who are underage or have disabilities.

In particular, in the investigation phase, it is specifically understood in the case of THB victims that the statement should be taken by a person of the same sex as the victim when the latter so requests, unless this may significantly hinder the progress of the process or the statement must be taken directly by a Judge or Public Prosecutor.

Provided that it does not hinder the effectiveness of the procedure, the authorities and officials in charge of the criminal investigation shall ensure that:

- a) Victims' statements are taken down, when necessary, without undue delay.
- b) Victims' statements are to be taken as few times as possible, and only when strictly necessary for the purposes of the criminal investigation.
- c) The victims may be accompanied by, in addition to their procedural (court) representative and where applicable their legal representative, a person of their choice, when the procedures in which they must take part are being carried out, unless the public official or authority responsible for carrying out the procedures to ensure they are carried out properly rules otherwise with reasons.
- d) Medical examinations of victims are only carried out when they are essential for the purposes of the criminal procedure, and the number of them is reduced to a minimum.

During the prosecution phase, in accordance with the provisions of the Criminal Procedure Act, certain measures may be adopted to ensure the safety, privacy and confidentiality of THB victims, including those that avoid visual contact between the victim and the alleged perpetrator of the events, and that the victim can be heard without being present in the courtroom by using videoconferences, as well as measures to avoid asking questions regarding the victim's private life that are not relevant to the criminal act being prosecuted (unless the Judge or Court exceptionally considers that they must be answered so as to

adequately assess the facts or the credibility of the victim's statement) and even the holding of the oral hearing without the presence of the general public.

In the case of THB victims for whom it is considered necessary, it can be agreed to adopt one or more of the protection measures included in Art. 2 of Organic Law 19/1994 23 of December on the protection of witnesses and experts in criminal cases, aimed at preserving the identity of witnesses and experts, their home address, profession and place of work, also being able to adopt decisions such as a physical appearance to carry out any proceedings using any procedure that prevents normal visual identification and establishing the headquarters of the intervening judicial body as the victim's home address for the purposes of summons and notifications.

**8.4 In how many cases were witness protection measures used for the protection of victims and witnesses of THB, including children? If witness protection measures/programmes are not applied to victims of trafficking, what are the reasons?**

There is no specific record for this.

**8.5 When victim protection is provided by NGOs, how are NGOs resourced and supported to perform this function and how do the police and the prosecution cooperate with NGOs?**

Instruction 6/2016 by the Secretary of State for Security on actions by the State Law Enforcement Bodies in the fight against trafficking in human beings and in collaboration with organisations and entities with proven experience in assistance for the victims, sets out a procedure to identify victims and coordinate the activity of specialised entities.

From the very moment when it can be considered that there are reasonable signs to believe that a person is a victim of trafficking, the police units will adopt the necessary measures aimed at guaranteeing protection of their rights, medical and social assistance, and the legal support they need.

As soon as it is detected that a person could be a potential victim of trafficking, through the established social interlocutors the State Law Enforcement Bodies will request support from specialised entities so the victim can receive information about their rights and possibilities for assistance during the identification process and if they are finally considered to be a victim of human trafficking.

Identification of the victims will be carried out exclusively by the police units that have specific training in preventing and combatting trafficking, and in identifying and assisting such victims, always counting on all the legal and *de facto* elements available to them.

In keeping with the above, as well as the provisions of the Protocol and the Standing of Victims, Law Enforcement shall notify the entities specialising in victim protection of the detection of potential victims of trafficking in human beings in order for them to collaborate in early identification and specifically in the identification interview. Said notification must always be given, except when it affects the protection of the victim or the investigation as regards the information referred to in the second Instruction, through the Social Interlocutor.

As for financing, specialist entities can count on public aid and subsidies through the different Action Plans that are being approved and developed.

Among the most significant State financial commitments to maintain some of the activities of specialised organisations responsible for protecting and assisting women and girls who are victims of trafficking for sexual exploitation, as well as a stable network of specialised resources, the following tenders for grants and public transfers are particularly worth noting:

- ✓ A tender from the government delegation against gender violence for public subsidies aimed at projects to support women and girls who are victims of human trafficking for the purpose of sexual exploitation and their children who are minors or have a disability, with a fund of €4,000,000 in 2020 and previous years (which is divided among more than 50 specialist organisations) and €6,000,000 in the tender for 2021.
- ✓ The tender is paid for as social purposes through IRPF (income tax) from the Secretary of State for Social Rights, through which around €2,500,000 was paid in 2020 in subsidies for projects to assist victims of trafficking.
- ✓ Transfer of funds by the Ministry of Equality to the Autonomous Community regions and Local Entities under the State Pact against Gender Violence worth €100 million for Autonomous Community regions and €20 million to city councils to carry out projects or programmes to comply with the measures in the State Pact against Gender Violence, which include specific measures regarding the trafficking of women and girls for the purpose of sexual exploitation.

The aforementioned funding is intended to defray programmes or projects carried out by specialised organisations, including ones related to support and accompaniment for victims, their psychological care, expenses for accompaniment during transfers to specialised resources, expenses related to obtaining healthcare services and other social services, as well as legal defence costs for women and girls who are victims of trafficking for the purpose of sexual exploitation and their minor or disabled children, and more.

The law enforcement bodies have developed internal protocols for action in relation to collaboration with NGOs in matters of trafficking, cooperating with NGOs as of the moment victims of THB are detected, and being in permanent contact with organisations via the Social Interlocutor of the National Police and Civil Guard.

The Social Interlocutor acts as liaison with NGOs to help communication, assistance and protection for THB victims. It was created through [Instruction 6/2016 from the Secretary of State for Security on actions by the State Law Enforcement Bodies in the Fight against Trafficking in Human Beings and in collaboration with Organisations and Entities with Proven Experience in Assistance to Victims](#).

The Social Interlocutor holds regular joint meetings with the Immigration Public Prosecutor's Office and NGOs to stay abreast and report on possible THB episodes in each respective sphere. Furthermore, these Social Interlocutors foster the presence of NGOs in taking victims' statements when order to help the process and ensure their protection.

In addition, they coordinate and carry out the intermediation between the judicial authority and the NGO in charge of the victims, cooperating with the NGOs in the transfers and protection of the victims during their declaration in court, procedures in the Immigration Offices, transport to other provinces, etc.

The main aim of this coordination between law enforcement and NGOs is to build up the victims' confidence so as to achieve their full recuperation and recovery.

When victims of trafficking in human beings are detected and identified in an investigation, they are referred to specialist NGOs in order to receive comprehensive assistance according to their personal circumstances.

Collaboration with NGOs is also reinforced by the training received by police and Civil Guard officers, in which they often participate by offering their knowledge. In turn, the Civil Guard and the National Police collaborate through specialists in human trafficking in the courses, training and study days provided by social organisations for their members and collaborators.

**8.6 How do you ensure that child victims of THB are treated in a child-sensitive way and are provided with protection before, during and after judicial proceedings in accordance with the Council of Europe Guidelines on Child Friendly Justice? Are interviews with children conducted in specially designated and adapted spaces by professionals trained to interview children? What measures are taken in order to ensure a limited number of interviews?**

Law 4/2015 of 17 April on the Standing of Victims of Crime expressly states that, in the case of underage victims, the Public Prosecution Service will particularly ensure compliance with this right to protection, adopting the appropriate measures in their greater interest when necessary to prevent or reduce harm or damage that may arise for them as a result of the proceedings.

Specifically, the Criminal Procedure Act after the reform via Organic Law 8/2021 of 4 June on comprehensive protection for children and adolescents from violence, expressly states that "when a person under fourteen years of age or a person with a disability in need of special protection must take part as a witness in judicial proceedings to investigate a crime of homicide, injuries, against freedom, moral integrity, human trafficking, sexual freedom and security, against intimacy, family relationships, against the exercise of fundamental rights and public freedoms, crimes linked to criminal and terrorist organisations and groups, and terrorism; the judicial authority will agree in all cases to use the minor's interview as evidence preserved prior to trial, with all of the guarantees for examining evidence in the oral trial and in accordance with the provisions of the Law. This procedure shall be carried out with all of the guarantees for accessibility and necessary support.

The judicial authority may agree for the interview with the minor under fourteen years of age to be carried out via psychosocial teams that will support the Court in an interdisciplinary and inter-institutional way, taking up the work by the professionals who have previously intervened and studying the personal, family and social circumstances of the minor or disabled person, in order to improve the way they are treated and their performance in giving evidence. In this case, the parties shall forward the questions they deem appropriate to the judicial authority who, after checking they are relevant and useful, will pass them on to the experts. Once the interview with the minor has been held, the parties may request clarifications from the witness in the same terms. The statement must always be recorded and the Judge, after hearing the parties, may obtain a report from the expert giving an account of the proceedings and the outcome of the minor's interview.

In the event that the investigated person is present at the minor's hearing, their visual confrontation with the witness should be avoided, using any technical means if necessary.

The procedure for assisting minors is carried out by specialised officials who are trained to do so, following specific protocols as well as the 2011 Framework Protocol for the Protection of Victims of THB, with special consideration for the best interests of the minor, respecting their dignity, freedom and non-discrimination due to their vulnerability, and dealing with them carefully at all times.

Examinations are carried out in appropriate facilities, ensuring at all times that the minors are safe and comfortable. Likewise, contact or visual confrontation between them or their relatives and those accused or being investigated must be avoided in these spaces.

The interviews are carried out by staff especially qualified in assisting victims of THB, without wearing uniforms or displaying their standard-issue weapons, reporting the results of the examination to the competent Juvenile Public Prosecutor's office.

All officials who in any way intervene or participate in proceedings with minor victims must take the necessary and suitable measures to guarantee their rights and protection, avoiding the possibility of

causing them secondary or reiterated victimisation in all proceedings that are considered obligatory, and dealing with them in a respectful, professional, individualised and non-discriminatory way. During the interviews or examinations, it is vitally important to establish an empathic relationship with the minor to convey confidence and security. The pace of the examination must be adapted to their attention span and fatigue, while using language suited to their age and emotional state.

In addition, Organic Law 8/2021 of 4 June, on the comprehensive protection of children and adolescents against violence, Title I, covers the rights of children and adolescents against violence, including their right to information and advice, to be heard, to comprehensive care, to intervene in judicial proceedings and to free legal aid.

This Law guarantees, among other rights, that minors shall be heard and listened to with all the assurances and with no age limits. It is a right that can only be restricted with reasons when it is contrary to their best interests. Similarly, the Law establishes that professionals who interact with minors must have adequate training and professional specialisation, guaranteeing that the witness reports from minors are obtained with due precaution.

In this vein, the Law Enforcement Bodies have rooms in their units designed for taking statements and interviews with minors where, depending on the minor victims' age and particular circumstances, the witness statements are taken by specialists with the appropriate training to carry out this type of work. Minor victims can also be accompanied by anyone they trust and by the Court's psychosocial services. In any case they can count on the protection of the Public Prosecutor's Office for Minors.

To minimise the number of interviews and the presence of minors in procedural transactions, Law 8/2021 makes it obligatory to prepare pre-trial evidence in especially serious crimes, including trafficking in human beings, which must necessarily be done by the Courts' psychosocial services Courts and recorded audiovisually. For this evidence, the Judge makes the questions that he/she deems appropriate, which are conveyed to the minor by a professional expert in clear and simple language that the minor can easily understand.

The evidence prepared in compliance with the principles of criminal procedure, and especially with the right of confrontation, may be produced in the trial without the need for the minor to be present

On preparing this pre-trial evidence, specialist staff from law enforcement are often present to approach, accompany and interview the victims.

## **9. Specialised authorities and coordinating bodies (Article 29)**

### **9.1 What budget, staff and resources, including technical means, are put at the disposal of law enforcement bodies specialised in combating and investigating THB?**

The National Police force has a nationwide Central Brigade against Trafficking in Human Beings within the General Commissariat for Immigration and Borders' Central Unit for Illegal Immigration and Forgery (UCRIF), with scope to act throughout the nation with highly specialised groups in the fight against THB, separated according to the nationalities with which this phenomenon occurs in Spain, to investigate criminal activities involving human trafficking and related crimes nationally and internationally.

It also carries out operational coordination and technical support for the regional units and acts as the National Central Office in this regard in relation to other bodies.

Around Spain there are 23 regional UCRIF (Units against Illegal Immigration Networks and Forgery). They are specialised groups with the same functions in their regions as the central UCRIF.

They can also resort to support from certain specialised NGOs that have cultural mediators to act immediately (same language, nationality, sex or age as the victim).

In 2016, the Secretary of State for Security (Ministry of the Interior) created the National Social Interlocutor in the fight against Trafficking in Human Beings, whose specific purposes include cooperation and coordination with the different Territorial Social Interlocutors, guaranteeing dissemination of all the information related to THB, whether contained in national or international regulations, in case-law or else based on social or police initiatives that may be launched, as well as ensuring mutual exchange of information. In their capacity as Social Interlocutors, these experts are the permanent point of contact with organisations and entities with proven experience in assisting trafficking victims (specialised entities), to foster collaboration with them, ensure mutual exchange of information, trends and statistics, and to promote the coordination protocols necessary to help victims and specialised police support in the matter.

The THB Victims Attention Service (free phone 900 10 50 90 and email [treat@policia.es](mailto:treat@policia.es)), available 24 hours, is managed by officials specialising in THB to obtain, verify and pass on to the relevant police units all information related to situations of human trafficking or exploitation.

Internationally, there is collaboration to exchange information as well as investigation into THB with:

- ✓ The Interior Ministries or Attaché Offices
- ✓ Europol
- ✓ INTERPOL
- ✓ SIRENE

As for staffing and material resources, the Civil Guard has two Central Units of Judicial Police, one of them specialising in intelligence, coordination and training (Judicial Police Technical Unit or UTPJ) and another specialising in operational investigation (UCO). They can count on all the technical and material means available for investigating any other crime, as well as support from units specialising in technical means and in field work in locating, tracking and surveillance of the alleged perpetrators. Furthermore, both units provide support in the investigation and assistance for victims required by the other units in the corps.

As for the Civil Guard, it has units and staff trained in matters of trafficking in human beings in all of the provinces in Spain, taking charge of investigations of this type of crime, as well as assistance for victims, coordination and collaboration with organisations and social entities specialising in assisting victims. It covers the nation and has specialised units throughout.

In addition, there are entrance academies for the training (for the ranks of Corporals, Guards and Officers), as well as the Centre for Improvement for Civil Guards to specialise as Judicial Police.

**9.2 If your country has specialised units for financial investigations, financial intelligence units and asset recovery units, please describe whether and how are they used in investigating and prosecuting THB cases. Which special investigation techniques do these units use? Which public and/or private bodies do these specialised financial investigation units cooperate with in relation to THB cases?**

Each Immigration Unit is obliged to carry out the corresponding investigation into assets, localising all assets, movable and immovable property and rights, and stating these in an Assets Report.

It should be noted that to draw up these reports it is necessary to access and consult various information sources through public bodies such as the Virtual Land Registry Office, Property Registries and Companies Registries. No authorisation from judges or public prosecution is necessary to consult these organisations, though the information must be requested through the Specialist Group for Money Laundering of the Central Brigade Against Human Trafficking, which is authorised and acts as the national office.

The purpose of the Money Laundering Group is not to draw up Asset Reports for the groups making enquiries, but to give them the mechanisms and information, as well as to advise them when they carry out investigations into assets. The aim of investigations into assets is to detect whether the criminal organisations or groups engaged in TBH or other circumstances related to immigration obtain and introduce money obtained illicitly in order to convert it into legal traffic, which is punishable under the Criminal Code's Article 301.1 (the basic classification of this crime could be defined as "acquiring, possessing, using, converting or conveying assets to hide or conceal their unlawful origin").

The purpose of such investigations is to discover the existence of such assets in order to request them to be frozen, as well as their possible confiscation, as provided for in Article 127 et seq. of the CP. Similarly, possible crimes of Fraud against the Public Treasury, Social Security Fraud and Money Laundering have to be ascertained, so it is essential to request information from other organisations, which are:

- ✓ Transfer Management Companies (EGT in Spanish, relating to money transfers).
- ✓ Central Body for the Prevention of Money Laundering (OCP in Spanish, General Board of Notaries).
- ✓ Central Banking Account Register (FTF, Sepblac).
- ✓ Spanish Confederation of Savings Banks (CECA).
- ✓ National Union of Credit Cooperatives (UNACC).
- ✓ Spanish Banking Association (AEB).
- ✓ Judicial Neutral Point (Spanish Tax Agency, AEAT, to compare payments involving public administrations).
- ✓ Social Security General Treasury (TGSS).

It should be noted that in order to access these sources or advisory bodies, except for the first two it is obligatory to get authorisation through a court order or public prosecutor's order.

As for staffing and material resources, the Civil Guard has two Central Judicial Police Units, one of which specialises in intelligence, coordination and training (UTPJ) and the other in operational investigations (UCO), with all of the technical and material means available to investigate any other crime; in this case, the financial investigation units conduct cross-cutting parallel investigations into serious crime and organised crime operations.

Regionally, the Civil Guard has units and staff trained in financial investigation in all the provinces of Spain.

The agencies and entities that collaborate in financial investigations with the Civil Guard are:

- ✓ The Civil Guard Office for the Localisation of Financial Assets (OLA).
- ✓ The Asset Recovery and Management Office (ORGA), which is in charge of asset recovery through court orders.
- ✓ The Executive Service of the Committee for the Prevention of Money Laundering and Monetary Offences (Sepblac).
- ✓ The General Council of Public Notaries, from which one can access the files on different notarial activities carried out by natural persons and legal entities.

- ✓ The Financial Ownership File (FTF), from which the financial proceeds owned by natural persons and legal entities are obtained.
- ✓ The Property Registry, where all the properties and their owners in Spain are listed.
- ✓ The Companies Registry, which lists the economic activities in general of any type of company.
- ✓ In addition to these, one can also access other records for vehicles, boats and aircraft, as well as agreements with insurance companies and more.

## **10. International cooperation (Article 32)**

### **10.1 How does your country cooperate with other countries to enable victims of THB to realise their right to redress and compensation, including recovery and transfer of unpaid wages after they leave the country in which the exploitation occurred?**

*Articles 109, 109 bis and 110 of the Spanish Criminal Procedure Act guarantee that the victims of trafficking in human beings can exercise civil actions within the criminal procedure to achieve redress for damages of all kinds, including moral damages, that may have occurred as a result of the crime being committed.*

#### *Article 109*

*In the proceedings in which the Judge takes the statement from the aggrieved party who has the necessary legal capacity, the Court Clerk shall instruct them of their right appear as a party in the proceedings and to waive, or not, the restitution of things, repair of damages and compensation for damages caused by the punishable fact. Furthermore, they will be informed of the rights included under current legislation, and may delegate this function to staff specialising in victim support.*

*If the person is a minor or has limited legal capacity, the same legal proceedings will be exercised with their legal representative or person assisting them.*

*In any case, in procedures carried out for crimes included under [Article 57 of the Criminal Code](#), (trafficking in human beings would be included here), the Court Clerk shall ensure the victim is notified of proceedings that may affect their safety.*

#### *Article 109 bis*

*1. Victims of a crime who have not waived their right may exercise criminal legal action at any time before the classification of the crime is processed, though this will not allow them to retract or reiterate the actions carried out before they took part in person. If they formally appear in person after the deadline for formulating the written accusation, they may exercise the criminal legal action until the trial begins [...]*

*In the event of death or disappearance of the victim as a consequence of the crime, the legal criminal action can be taken by their spouse (non-separated legally) or common-law partner and their children or the children of the spouse (non-separated legally) or common-law partner who at the time of the victim's death or disappearance were living with them; by the person who until the time of death or disappearance had been linked to the victim by an analogous relationship of affection and by the victim's children who at the time of death or disappearance of the victim were living with the victim; by their progenitors or direct or collateral third-degree relatives (according to the definition in Art. 916 of the Criminal Code) who are under their care, persons under their guardianship or guardian advocacy, or those under their foster care.*

*If none of the above cases exist, the action can be taken by other direct lineage relatives or siblings, preferably the one among them who bears legal representation for the victim.*

*2. The fact that criminal legal action has been taken by any of the persons legitimated in accordance with this Article does not mean it cannot be taken subsequently by any other legitimated party. When there is more than one victim, all of them may prosecute independently with their own representation. However, in such cases, when an orderly procedure may be affected or the right to a procedure without undue delays, the judge or court may take a reasoned decision after hearing all the parties to impose a grouping of them into one or several representations and for them to be headed by the same or several defences, depending on their different interests.*

3. *Criminal action can also be taken by victims' associations and by legal entities that are recognised by law as legitimated to defend the victims' rights, provided that they are authorised by the victim of the crime [...].*

#### Article 110

*The parties injured by an offence or misdemeanour who have not waived their right may become a party to the case if they do so prior to the procedure classifying the offence and take such civil action as is appropriate, as they deem fit, without this causing a delay to the course of the proceedings. If they take legal action after the deadline for formulating the accusatory statement of case, they may exercise the criminal action until the trial begins, adhering to the accusatory pleading by the Public Prosecution Service or the other private accusations.*

*Even where the injured parties do not become a party to the proceedings, this does not mean that they waive their right to restitution, redress or compensation which may be agreed in their favour in the final judgment. To waive this right, as applicable, they must do so in a clear and categorical manner.*

*Spanish Law on Free Legal Assistance (1/96) recognises the victims' right to free aid from a lawyer. The lawyer's purpose is not exclusively limited to strict legal assistance; the professional should be in permanent contact with entities specialising in defending the victims' interests in order to provide comprehensive assistance that even includes representation in the event of having to enforce civil liabilities arising from the crime and social assistance that may be necessary.*

*Hence, the right to support in the process of return and notification to the country of origin is upheld, as is the right to protection after the criminal procedure included in the Palermo protocol and applicable international conventions, as well as Directive 2012/29 of the European Union and Articles 14-21 of the Spanish Standing of the Victims of Crime.*

### **10.2 Has your country co-operated with other countries in the investigation and prosecution of THB cases through financial investigations and/or Joint Investigation Teams? Please provide statistics on such cases and examples from practice.**

There is regular collaboration with police officers from Bulgaria, Romania, Colombia, Belgium, Holland, etc., as well as numerous specific collaborations with Nigeria, France, Italy, the United Kingdom, China, etc. The most noteworthy examples of collaboration are:

- ✓ Operation MICRO: Within the context of a joint work team between Romania and Spain, coordinated by Eurojust.
- ✓ Operation Tean: Within the context of Eurojust, through channels of international judicial cooperation, with regard to a European Investigation Order.
- ✓ Operation Solent: Within the context of Europol, as a result of international police cooperation, this investigation operated between the countries of Spain, Romania and the United Kingdom.
- ✓ Operation VELA: This involved a working team involving several countries from the European Union and Europol coordinated by Eurojust, investigating a criminal organisation that was operating in Spain, Romania, the Czech Republic, Switzerland and the United Kingdom.
- ✓ Operation Jaca: Coordinated investigation between Spain, Romania and Italy through a joint team created within Eurojust, with participation from Europol.
- ✓ Operation Palmera: Joint investigation team with Germany to dismantle an organisation of Romanian citizens who exploited their victims of Romanian nationality in Spain.

In the judicial sphere, numerous requests for international cooperation are received, whether letters rogatory or European Investigation Orders (EIO) in relation to crimes of trafficking in human beings.

According to the statistics from the Attorney General of the State's Office, two joint teams have been created in relation to this crime and the creation of another with Colombia is pending.

### **10.3 How many mutual legal assistance requests and/or European Investigation Orders have you made in THB cases and what was their outcome?**

Due to matters related to human trafficking, since 2018 to date the Ministry of Justice's General Subdirectorate for International Legal Cooperation has processed a total of 114 applications, of which 47 have been active (requested by Spanish judicial bodies) and 67 passive (requested by foreign judicial bodies).

As for the level of completion, out of the 47 active ones, 15 have been completed, 24 are pending and 8 have been sent back for correction. Out of the 67 passive ones, 35 have been completed and 32 are pending implementation.

Three active requests have been sent by the Public Prosecutor's Office since January 2020. In any case, the Public Prosecutor's Office does not have complete statistics since investigation is the responsibility of the Investigating Courts.

### **10.4 What forms of international cooperation have proven to be particularly helpful in upholding the rights of victims of trafficking, including children, and prosecuting alleged traffickers?**

International cooperation in matters of trafficking in human beings is included in the *Guide for Criteria for Judicial Action against Trafficking in Human Beings* from the CGPJ of 2018<sup>3</sup>, which refers to mechanisms and tools to aid international judicial cooperation such as the *Prontuario* (manual on international judicial help headed and coordinated by the CGPJ), Eurojust, the European Judicial Network (EJN), IberREd and the joint investigation teams in the matter.

Perhaps the form of international cooperation that has proven to be most useful in terms of investigating the crime of trafficking in human beings is the joint investigation teams (JIT, or EIC in Spanish).

In the sphere of the European Union, complete regulations for the JITs were included in Art. 13 of the Convention concerning judicial assistance in criminal matters between Member States of the EU in 2000 (CUE/2000). However, to streamline this investigation technique in practice, the Framework Decision 2002/465/JAI of the Council was also enacted on 13 June concerning the Joint Investigation Teams, whose regulations coincide substantially with the provisions of Art. 13 of CUE/2000.

Spain implemented the Directive via Law 11/2003 of 21 May on Joint Criminal Investigation Teams within the scope of the EU. Internal law distinguishes between JITs that must be set up within cases that are under the competence of the National Court from other cases whose competence is attributed to Criminal Investigations Courts. In the former case, the creation of JITs corresponds to the National Court, although the regulations do not identify the specific judicial authority (Central Investigating Judge with authority in the investigation, Chief Public Prosecutor at the National Court, Chief Prosecutor of the Special Prosecution Service acting at the National Court assisting in the matter) that should sign the agreement. However, the biggest objections may appear as regards cases in which ordinary Investigating Courts have the authority, since in this case the Ministry of Justice must authorise the setting up of a JIT, which could imply interference from political power in a judicial investigation, infringing upon the principle of division of powers.

The Joint Investigation Team Network was created in 2005, and in 2011 it passed on to the EUROJUST secretariat. Contact points are represented in the network such as the General Council of the Judiciary and the Attorney General of the State's Office, as well as representatives from the Ministry of Justice and State Law Enforcement Bodies.

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<sup>3</sup> The Guide was given to GRETA after the Second Evaluation Round in Spain.

As for IberRed, in the Minutes to the 7<sup>th</sup> Plenary Meeting on IberRed Points of Contact and Liaison, 15<sup>th</sup> Anniversary of IberRed in Madrid from 28 to 30 October 2019, the following was pointed out in the matter of joint investigation teams: "The joint investigation teams are currently set up as one of the most effective tools for investigating transnational organised crime since they enable close cooperation between two or more countries without the need for letters rogatory in the strict sense. However, there is hardly any practical experience in the matter in Iberia-America, so it would be useful to foster joint teams being set up. In order to help set up and run the joint investigation teams, it is necessary for all the countries in Iberia and Latin America to have internal legislation in the matter. That is why it is important to foster their regulation in the different internal legal systems and training for our judges and prosecutors in the matter. Common international regulations in force regulating this tool was limited to three United Nations Conventions against Corruption (New York, 31 October, 2003), Transnational Organised Crime (Palermo, 13 December, 2000) and Illicit Traffic in Narcotic Drugs and Psychotropic Substances (Vienna, 20 December 1988). This was insufficient, so it was necessary to approve a common legal framework for the whole of Iberia and Latin America that was specified in the Cooperation Convention between Member States of COMJIB (Conference of Justice Ministers from Iberian and Latin American Countries) signed in Viña de Mar in April 2013. For this purpose, adhesion and ratification from some countries was necessary. In countries where setting up a team is subject to prior authorisation from the central authorities, it is essential to reduce and streamline the procedures as much as possible. Once a joint investigation team has been set up, it is very advisable to select a court as soon as possible that will be in charge of the prosecutions so as to avoid problems arising from conflicts of jurisdiction or the principle of *non bis in idem* (double jeopardy). It should be noted that in the context of joint investigation teams it is essential to have direct communication between the authorities in charge of investigating the crime, and they should hold regular meetings. For this purpose, it would be useful to have a common office for coordination in the area of America and Iberia similar to EUROJUST, which could be called IBERJUST. This could be created in future in IberRed. It is also worth noting that EUROJUST funds joint investigation teams undersigned by countries that are not members of the European Union, provided that there is at least one Union member country in the team. The need was expressed in the preparatory meeting for this Plenary Meeting to set up a working group on Joint Investigation Teams, which is reiterated here. It is noteworthy that in the segment on lessons learned in international legal cooperation, mutual legal assistance and extradition, in cases against corruption it was detected that, as with organised transnational crime, due to its complexity it is fundamental to have prior coordination on sending the request or letter rogatory and/or likewise when it is being executed, in order for this request to meet all the requirements of the country being petitioned. The purpose of the above is to clarify or complement the requirement to ensure it is processed."

It should be noted that a network of prosecutors against trafficking in human beings has been set up at the heart of IberRed to serve as the point of contact for specialist prosecutors from each of its member states.

It is also worth noting the importance of Eurojust in the effectiveness of persecuting crimes of trafficking in human beings. It is an institution which in Spain has a significant national delegation as well as European and national networks, within which there is the Spanish judicial network for international judicial cooperation (REJUE), whose purpose is to give advice to Spanish judicial bodies on procedures with transnational connotations, which is common in the procedures we are dealing with.

Finally, the liaison judges or legal attachés at the embassies provide important mechanisms to foster international judicial cooperation. It should also be noted that recently a Nigerian prosecutor has been appointed with the functions of a liaison judge located in the Spanish Ministry of Justice, which has helped in combating the so-called Nigerian networks.

Joint investigations between police authorities from different countries are of great interest, since they foster certain extraordinary measures being taken such as protection for victims or their families in the country of origin.

The involvement of the international agencies Eurojust, Europol and Interpol is also essential to more efficiently coordinate police investigations among various countries.

These instruments make it possible for the judicial authorities of another State to take essential measures to apprehend criminals, such as European and international arrest warrants, letters rogatory, court orders, etc.

One of the most useful forms of police cooperation occurs when direct contact is established with the investigators in each of the countries, transmitting the information quickly and directly, enabling the investigation teams to take immediate action to protect victims and in particular their relatives in their places of origin. Such collaboration is carried out through internal liaisons and regional interior heads from Spain who are abroad and those from other countries in Spain.

However, despite the possibilities for immediate action made possible by police cooperation, no such action would be effective without support from international judicial cooperation, with very useful joint investigation teams created under judicial protection, enabling coordinated action and the use of evidence obtained in any of the countries intervening.

In procedures for the return of migrants, collaboration with the International Organization for Migration (IOM) is also very important, as well as with organisations specialising in the protection of victims that have agencies in the countries of origin or are in contact with other organisations there.

### **10.5 What international cooperation measures are in place to ensure protection and assistance to victims on return from your country to their countries of origin following their participation in criminal proceedings?**

Article 145 on the Regulations of Organic Law 4/2000 on foreigners' rights and freedoms in Spain and their social integration states that:

"1. Foreigners may apply for assisted return to their country of origin at any time from the moment reasonable motives are observed as to their possible condition of victim of trafficking in human beings, with no detriment to the competent authorities in the context of an investigation into the crime or a criminal procedure being able to determine whether it is necessary for them to stay in Spain in accordance with the regulations applicable to their participation in said investigation or procedure.

2. Said application, sent to the Secretary of State for Immigration and Emigration, can be presented to any of the competent authorities within the context of the procedures regulated in this chapter.

The Secretary of State for Immigration and Emigration will facilitate the handling and assistance for the voluntary return according to the provisions of Article 16 of the Council of Europe Convention on Action against Trafficking in Human Beings. In any case, assisted return shall include an assessment prior to departure of the risks, safety, transport and assistance at the points of departure, transit and destination.

3. In the event that it is determined that it is necessary for the foreigner to remain in Spain by virtue of the provisions of Section 1 of this Article, the application for assisted return shall be processed as soon as the reasons for their obligatory stay in Spain no longer apply."

### **10.6 What international cooperation measures are in place to protect and assist victims of THB for the purpose of sexual exploitation through online streaming where the perpetrator is a national or habitual resident of your country and elements of the crime have occurred in your country's jurisdiction?**

Joint investigation teams, European investigation orders and letters rogatory.

The Criminal Procedure Act allows courts to adopt victim protection measures appropriate to the circumstances of the victims and the perpetrators. For international cooperation, it would be necessary to carry them out through the corresponding European investigation orders or letters rogatory, since they are measures that would imply a restriction of rights, a situation that means it is obligatory to comply with international provisions on human rights.

## **11. Cross-cutting questions**

### **11.1 What steps are taken to ensure that victims of THB have equal access to justice and effective remedies, irrespective of their immigration status and the form of exploitation?**

This question has been answered in Section 2 of this questionnaire.

### **11.2 What steps are taken to ensure that criminal, civil, labour and administrative proceedings concerning victims of THB are gender-sensitive?**

This question has been answered in Section 2 of this questionnaire.

### **11.3 What steps are taken to ensure that procedures for obtaining access to justice and remedies are child-sensitive, readily accessible to children and their representatives, and give weight to the child's views?**

This question has been answered in Section 2 of this questionnaire.

### **11.4 What steps are taken to ensure that private entities take steps to prevent and eradicate trafficking from their business or supply chains and to support the rehabilitation and recovery of victims? What options exist for victims of trafficking to access effective remedies from businesses implicated in human trafficking?**

Royal Legislative Decree 2/2015 of 23 October approving the recast text of the Law on the Workers' Statute, Art. 42, establishes a general framework for outsourcing civil works and services, and Art. 43, puts limitations to transferring workers and the situation of illegal transfer of workers. Both precepts include circumstances of joint and several responsibilities between businesspeople.

In the construction sector, it is worth highlighting [Law 32/2006 of 18 October, regulating outsourcing in the Construction Sector](#), which is pioneering in establishing clear limitations on the levels of outsourcing in this sector.

Through collective bargaining, social agents in Spain have also adopted measures in relation to outsourcing.

Furthermore, the future National Action Plan against Forced Labour (see Section 13) will address issues related to outsourcing and supply chains.

This issue is essentially outside the powers and remit of the Judiciary and the General Council of the Judiciary (CGPJ) in particular. As stated in the report issued by the Attorney General of the State's Office, the employment authorities will be the ones most capable of responding to these questions.

As for options for the victims to access effective remedies from the companies involved, and from the point of view of the Judiciary exclusively, the options will be to ensure and realise property and assets belonging to the companies convicted of the crime of human trafficking.

#### **Ensuring goods, means, instruments and earnings that could be confiscated.**

Art. 127 octavus of the Criminal Code provides for the possibility (not contemplated by our legal system before the reform implemented by Organic Law 1/2015 of 30 March) for the judicial authority to agree to freeze, seize and store the assets, means, instruments or earnings that may be confiscated in accordance with the preceding articles, as of the first proceedings, and provided that there are reasons for reasonable belief that said assets may be confiscated on sentencing.

Economic precautionary measures aimed at ensuring confiscation and criminal forfeiture are a very effective instrument in the fight against THB and in general in the fight against criminal organisations and organised crime. They are intended to prevent the assets, means or instruments of the crime from being

used again to commit new criminal activities, as well as assets of illicit origin that may be used to finance new criminal activities. These measures are essential in ensuring payment of compensation that has been declared to be applicable in favour of the victims.

These measures must be adopted by the Investigating Judge as of the first proceedings to prevent the disappearance, loss, transfer or charges applied to the assets and confiscable items, and to ensure the effectiveness of the confiscation.

The precautionary measures to ensure confiscation can be agreed on the Investigating Judge's authority since they guarantee compliance with pecuniary responsibilities of a criminal nature, unlike the economic precautionary measures aimed at ensuring the effectiveness of future possible civil liability, which are subject to the accusatory principle (requiring a prior request from the Public Prosecution Service or the injured party) by virtue of the referral made by Art. 764.2 of the LECrim to the application of the general budgets for precautionary measures included in the Act on Criminal Procedure (LECrin, Art. 721).

All assets, means, instruments and earnings that may be confiscated may be subject to such measures to ensure them, i.e. all assets, means and instruments with which the crime has been prepared, and the earnings arising from the criminal offence or originating from it, regardless of the transformations they may have undergone, even if they have been conveyed to a third party, except in the case of a third party in good faith who is not responsible for the crime and who has acquired them legally. Confiscation assurance measures will in principle be applied to assets of illicit origin, but they may also exceptionally be applied to assets of legal origin, as in the case of equivalent confiscation, when the aforementioned cannot be frozen.

Like any precautionary measure agreed upon during the investigation of the case, these assurance measures require the concurrence of two basic conditions: the appearance of good law and danger of procedural delay.

The precautionary measures that can be adopted to ensure confiscation are not specified either by the Criminal Code or the LECrim, but the criteria in Section 7.2 from Circular 4/2010 from the Attorney General of the State's Office can be taken as a guideline, indicating the Public Prosecution Service's functions in investigations into assets in the sphere of criminal proceedings, which are set out below:

1. In cases in which cash is seized, it will be entered into the judicial accounts set up for this purpose.
2. In the case of bank accounts and deposits, an order must be issued decreeing them to be blocked and the balances frozen in the entities where they are located, though in some cases it may be advisable to allow deposit transactions.
3. If assets, securities or other financial instruments are confiscated, a freeze on them must be decreed. This ruling must be communicated to the entity issuing the securities and intermediary or administrator companies, with an order to deposit the returns or dividends it generates into the corresponding linked account. It is, therefore, a case of administering the funds, whose management is entrusted to the entity in which they are deposited, with the aforementioned limitations and under judicial control.
4. Jewels must be deposited in their safe deposit box, or in a suitable establishment for this purpose. Early sale of them would not seem to be appropriate, unless one of the assumptions of Article 367 quater.1 of the LECrim arises, particularly in Section c) when the conservation and storage costs are higher than the value of the object itself, e) in the case of items that, while not suffering material deterioration, depreciate substantially over time, or f) when the owner is duly petitioned regarding the destination of the judicial effect but makes no statement.
5. The general recommendation for means of transport in general (boats, trucks, automobiles, aeroplanes or light aircraft) is for early disposal in accordance with the provisions of Instruction 6/2007 of 18 December from the Attorney General's Office, but an assessment must be made beforehand as

to whether it is not more convenient in the specific case to authorise its provisional use in accordance with the provisions of Article 367 sextus of LECrim, with the due guarantees for its conservation.

6. The precautionary measure for real estate property must be executed in accordance with the provisions of Art. 604 LECrim, issuing an order to the Property Registry to make a preventive annotation of seizure or freezing in accordance with mortgage legislation, taking into account the provisions of the final paragraph of Art. 20 of the Mortgage Law. In such cases, there are factors that must be carefully assessed such as the proprietary or joint nature of the assets, or whether they belong to the accused or to a third party, for which special attention must be paid to ensuring that the order issued states the elements that support the belief that the real owner of the property is the accused, and not the one in whose name it is registered (Rulings by the DGRN (Spanish body controlling state property arising from criminal trials) of 29 December 2005 and 27 February 2006), which will allow the Investigating Judge or Court, whichever is applicable, when faced with a refusal by the Property Registrar to register said prohibition, to impose coercive fines or even use the facts to prosecute for a criminal offence of disobedience.

7. If the seized item is a business entity that belongs entirely to the alleged accused parties or one of them, then judicial administration of it must be set up, in accordance with the provisions of Articles 630 to 633 of the Law on Civil Procedure. If there are simple shares with no right to management, it will suffice to agree on a ban on possessing them, and to order the directors for the profits yielded to be paid into the competent judicial body's account for seizures and deposits.

**The proceeds from realising the effects, assets, instruments and earnings confiscated** shall be applied to the costs arising from preserving the assets and the procedure for realising them. Any excess will be consigned to the judicial body's account for confiscations and will be assigned to pay the civil liabilities and costs that are declared in the procedure. Once the civil liability and costs have been met, such surplus may be assigned to the Office for the Recovery and Management of Assets and to the bodies of the Public Prosecution Service in charge of repressing criminal organisations (Art. 367 quintus of LECrim).

The Sixth Additional Provision of the Criminal Procedure Act provides for the **Asset Recovery and Management Office (ORGA in Spanish)**, establishing its functions and goals, and in Article 367 septimus of LECrim it is established that "the judge or court, on their own authority or at the request of the Public Prosecution Service or of the Office of Recovery and Management of Assets itself, may entrust the localisation, preservation and management of the effects, assets, instruments and proceeds from criminal activities committed within the context of a criminal organisation to the Asset Recovery and Management Office", the organisation and operation of said office being regulated by rules of procedure.

The legal framework for ORGA is provided by the aforementioned regulations, i.e. Organic Law 1/2015 of 30 March, which amends Organic Law 10/1995 of 23 November on the Criminal Code, and Law 41/2015 of 5 October, amending the Criminal Procedure Act to streamline criminal justice and bolster procedural guarantees.

ORGA's aims include:

- ✓ To provide legal instruments that are more effective in recovering assets arising from crime and in subsequently managing them in economic terms.
- ✓ To collaborate in recovering assets arising from the crimes in Article 127 bis of the Criminal Code.
- ✓ To reduce the costs arising from the management of seized and confiscated assets by relieving the court of this function.
- ✓ To optimise the value of the assets obtained to cover the victims' pecuniary restitution, thereby complying with Art. 8.10 of Directive 2014/42/EU.
- ✓ To comply with international cooperation obligations and collaborate with courts and the Public Prosecution Service.
- ✓ To redirect the proceeds from crime to social purposes and strengthen the institutions dedicated to fighting organised crime via the Adjudication Committee.

ORGA acts when entrusted to do so by the competent Judge or Court, at the request of the Public Prosecution Service or on its own initiative. When the Office acts at the request of the Judge, Court or the Public Prosecution Service, it does so in the sphere of criminal activities committed within the context of a criminal organisation, as well as the rest of the criminal activities involved in the scope of the extended confiscation, in the terms provided for in criminal and procedural laws and with respect to assets whose localisation, seizure or confiscation has been agreed upon as of 24 October 2015, the date when [RD 948/2015 of 23 October, regulating the Office of Asset Recovery and Management](#), came into force.

**11.5 What legal, policy and practical measures are taken in your country to prevent and detect situations where corruption facilitates human trafficking and infringes the right of victims of THB of access to justice and effective remedies? Please provide information on any known or proven cases of corruption or related misconduct of public officials in THB cases and any sanctions issued.**

The legal, regulatory and practical measures adopted in Spain to prevent and detect situations of corruption that facilitate human trafficking and that may violate the rights of victims of THB to access justice and other effective remedies are the usual ones for any other type of crime, based primarily on the provisions of the Criminal Code.

In the case of police officers, measures could be adopted via the internal disciplinary regime, though the latter is subject to the result of possible criminal liability determined by the criminal procedure initiated judicially.

Last year there was the case of a police officer in the province of Granada who, abusing his position, in collusion with the organisation carried out documentary procedures so that women of Latin American origin could stay in Spain, who were exploited by the organisation with which he was collaborating. The measures taken have been the toughest possible, having been detained for the time being, removed from the service, placed in provisional prison and currently awaiting trial.

Within Article 177 bis of the Criminal Code, the crime is considered to be aggravated in cases of human trafficking committed in which the perpetrator carries out the acts taking advantage of their condition of authority, officer or public official.

According to the report issued by the Attorney General of the State's Office, there is no knowledge of any conviction handed down over the last four years for corruption associated with the crime of trafficking in human beings, nor of any conviction of a public official for participating in a crime of human trafficking.

## Part II – Country-specific follow-up questions

### 12. Please provide information on new developments in your country since GRETA's second evaluation report concerning:

- **emerging trends of trafficking in human beings (new forms of exploitation, new recruitment methods, vulnerable groups, gender-specific aspects of trafficking, child trafficking);**

Spain continues to be one of the main transit and destination countries in the crime of THB. As with all kinds of crime, THB also evolves, with new trends appearing. In this vein, the Law Enforcement Bodies have identified the following:

- ✓ A rise in THB for the purpose of labour exploitation in the sectors of agriculture, construction and domestic work, especially the latter, where companies engaged in care of people in the household employ Honduran citizens (mostly women), without work or residence permits in exchange for very low wages. The victims are recruited in their country, subsequently being demanded payment of debt for the journey and the job. They are usually internal workers in households to care for the elderly or sick.
- ✓ Among the new types of exploitation, the exploitation to commit other criminal offences is noteworthy, specifically growing cannabis, where the presence of victims from Asian countries has been detected, in particular from Vietnam and China. They are captured with offers of work in agriculture or directly to cultivate the plant, being transferred from their countries of origin to the place of exploitation. This circumstance leads the victims to voluntarily isolate themselves due to language and cultural difficulties, being forced to live in places without adequate hygienic sanitary conditions and not able to leave the place for months.
- ✓ In addition, investigations have been initiated into trafficking linked to forced marriages.
- ✓ The use of social networks has been detected, seeking profiles of single, childless women living in South America with no financial means. After locating the possible victims, they deceive them by offering them a job in Spain taking care of the elderly and even sending them amounts of money of about 700 euros, getting them to arrive in Spain to be finally sexually exploited.
- ✓ Criminal organisations of Romanian origin have been detected that recruit victims with neuro-psychiatric problems, since they can be easier to manipulate.
- ✓ A very notable shift has been detected in the sexual exploitation of women from clubs to private apartments for prostitution. On the one hand, this facilitates the continuity of prostitution even in situations of restrictions such as those applied due to the pandemic, and on the other, it hinders Law Enforcement's task of inspection and control to detect victims.
- ✓ Almost all the victims of human trafficking for the purposes of sexual exploitation and work in the domestic sphere are women, but not in exploitation in the sphere of labour, which is usually both men and women, especially in the agricultural sector. Exploitation of minors in any type of trafficking in human beings is unusual, with the exception of trafficking for forced marriage where minor girls are forced to marry. This type of trafficking usually occurs in very specific ethnic and cultural groups, with cases being detected thanks to the training and collaboration of social services, educators and entities that assist migrants and disadvantaged people.

In addition, the Centre for Intelligence against Terrorism and Organised Crime has come to the following conclusions in its 2020 Annual Report on Trafficking in Human Beings:

- ✓ The COVID-19 pandemic has deepened the invisibility of human trafficking and exploitation, with the resulting difficulty in detecting and investigating it.
- ✓ Criminal networks have been able to quickly adapt to the new situation caused by the pandemic, reinforcing the use of new technologies for their own benefit, and shifting the traditional locations for exploitation in escort clubs to private homes.
- ✓ A notable drop has been seen in the incidence of trafficking and sexual exploitation, although the 2020 figures are around the average of previous years, which gives an idea of the real volume that

these criminal phenomena may have in Spain, as well as the effort made over the past year by the Law Enforcement Bodies.

- ✓ The presence of minors continues to be low, both in inspections and in investigations. CITCO considers that these figures are due to a greater concealment of such victims, which makes it difficult for State Law Enforcement to detect them.
- ✓ Most of the victims of trafficking, especially of the sexual kind, are of Latin American origin, with the downward trend in Nigerian victims continuing.
- ✓ In the sphere of trafficking and labour exploitation, all indicators except for the number of victims of trafficking have shown notable increases that may be linked to situations of job insecurity that may have appeared or increased during the pandemic.
- ✓ The upward trend in the number of women victims of labour trafficking continues.
- ✓ There is a significant presence of victims linked to police operations against labour trafficking in domestic service.
- ✓ It is foreseeable that after the pandemic, the vulnerability of many people who were already in an unstable economic situation could lead to an increase in the recruitment of victims of trafficking and exploitation.
- ✓ Spanish nationals continue to be the main perpetrators of trafficking and exploitation, whether for sex or labour.
- ✓ The incidence of human trafficking for criminal activity, begging or forced marriages continues to be low compared to sex or labour trafficking.
- ✓ Trafficking for the purpose of forced criminality mainly involves perpetrators and victims of Asian origin in "indoor" marijuana plantations.
- ✓ There has been a drop in inspection activity and people identified as a result of the restrictions imposed in 2020 in the context of the COVID-19 pandemic.

In order to analyse the figures showing the evolution of trafficking and exploitation of human beings, one can look at the [2016-2020 Statistical Balance](#) from the Centre for Intelligence against Terrorism and Organised Crime.

The Immigration Unit of the Attorney General of the State's Office has reported that in the area of sex trafficking in the last four years, there has been a very significant rise in investigations of criminal activities whose victims were Colombian and Venezuelan women, to the point of exceeding those from Nigeria and Romania, until then the majority. In 2020, for the first time, tracking proceedings were initiated in relation to an alleged victim from Oceania (New Zealand).

In 2020, the number of tracking proceedings (TP) for THB of any kind fell, most notably in sexual exploitation (58 TP for THB = -39.2%). This was due to the measures adopted to combat the global COVID-19 pandemic. There were not only home lockdowns, but also temporary closures of establishments and escort clubs, with curfews imposed that made it impossible or seriously limited the practice of prostitution for long periods of time. Despite this, levels of crime prosecution remained higher than those carried out in 2015 and 2016, and similar to those of 2018. Even in such an exceptional period as the one we have been experiencing, the enslavement of many women has not been drastically reduced, and they have also been exploited in other ways (live Internet pornography) or have been abandoned to their fate.

- **Legislation and regulations relevant to action against THB (e.g. criminalisation of THB, identification and assistance of victims of THB, recovery and reflection period, residence permit, supply chains, public procurement);**

In Spain, the regulatory framework on trafficking in human beings has one essential characteristic: its dispersion. Since 2009, different legislative reforms have been passed that have adapted our legal system to the obligations established in International Protocols, Conventions, Treaties and Directives<sup>4</sup>.

In the sphere of crime prosecution, the reforms of the **Criminal Code** in [2010](#) and [2015](#) have defined the crime of trafficking in Spain through Article 177 bis, giving the definition of trafficking agreed in the international sphere (Palermo Protocols, Warsaw Convention and Directive 2011/36/EU). Other aspects have also been reinforced, such as the criminal liability of legal entities (Article 31 bis), the confiscation of property arising from the crime (Article 127 et seq.), and crimes of child sexual exploitation.

With all of this, the definition of trafficking in human beings in the European Parliament Directive 2011/36/EU on preventing and combating trafficking in human beings and the protection of victims has been fully transposed.

In the sphere of victim protection, it is important to highlight the provisions of **Organic Law 4/2000 on the rights and freedoms of foreigners in Spain and their social integration** (amended by Organic Law 2/2009<sup>5</sup>), as well as **Royal Decree 557/2011 of 20 April, approving the Regulations for the aforementioned Law**, which establish a special administrative status for foreign nationals in an irregular situation who have been identified as victims of human trafficking:

- ✓ Recovery and reflection period of at least 90 days<sup>6</sup>.
- ✓ Possibility of exemption from administrative responsibility (arising from their irregular situation in Spain), assisted return to their country or proposal of residence and work authorisation due to exceptional circumstances.
- ✓ Specific actions in cases of Unaccompanied Foreign Minors (MENAs).

This regulation also provides for the preparation of the **Framework Protocol for the Protection of Victims of Trafficking in Human Beings**, which sets out the ground rules for coordination and action by the institutions and administrations with powers in the sphere of trafficking in human beings.

The Sole Additional Provision of the aforementioned Royal Decree also extends the scope of application for the provisions of Article 140 (relating to the Framework Protocol for the Protection of Victims of Trafficking) to **all victims of trafficking**, stating that these "*will also be applicable to potential victims of trafficking in human beings who are nationals of a Member State of the European Union or included in the subjective scope of application of the community immigration regime*".

Furthermore, [Law 12/2009 regulating the right to asylum and subsidiary protection](#) recognises persecution on the grounds of gender (Article 7.1.e) and includes an express reference to the situation of vulnerability of victims of trafficking who apply for international protection and who should be guaranteed different treatment (Article 46). On this legislative basis, and in accordance with international norms, the competent Spanish authorities in matters of asylum have been recognising the special protection that the concept of asylum provides for certain victims of trafficking who meet the requirements of the definition of refugee in the Geneva Convention Relating to the Status of Refugees and who cannot return to their countries of origin in safe conditions.

Approval of **Law 4/2015 of 17 April 17 on the Standing of Victims of Crime** was extremely important. It constitutes a general catalogue of the procedural and extra-procedural rights of all crime

<sup>4</sup> Specifically, the protocol to prevent, repress and suppress trafficking in persons, especially women and girls, which complements the United Nations Convention against Transnational Organized Crime; the Council of Europe Convention on Action against Trafficking in Human Beings; and the European Parliament's Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting victims.

<sup>5</sup> [Organic Law 2/2009 of 11 December, reforming Organic Law 4/2000 of 11 January, on the rights and freedoms of foreigners in Spain and their social integration.](#)

<sup>6</sup> Initially established as least 30 days and later extended to 90 days via the Second Additional Provision of Organic Law 8/2015 of 22 July, amending the protection system for children and adolescents.

victims, providing a legal and social response for victims and their relatives, and including specific assistance for the most vulnerable victims, such as those of trafficking in people and minors.

Specifically, their protection needs will be taken into account in the individual assessment of trafficking victims to determine what special protection needs they require and what measures should be adopted, which translates into access to specific protection measures aimed at preventing secondary victimisation during the investigation and prosecution phases.

Later, through [Royal Decree 1109/2015 of 11 December, which implements Law 4/2015 of 27 April on the Standing of the Victims of Crime](#), the Offices for Aid to Victims of Crime were regulated.

[Organic Law 8/2015 of 22 July, modifying the protection system for children and adolescents](#) and [Law 26/2015 of 28 July, also modifying the protection system for children and adolescents](#), improved the care and protection of the sons and daughters of women victims of gender violence, as well as of minors who are victims of other forms of violence against women, emphasising for the first time among the guiding principles for public powers' action in relation to minor the inclusion of their protection against all forms of violence, including trafficking in human beings.

Finally, there is the noteworthy recent approval of ***Organic Law 8/2021, of 4 June, on comprehensive protection of children and adolescents against violence***, intended to guarantee the fundamental rights of children and adolescents to their physical, mental, psychological and moral integrity against any form of violence, ensuring the free development of their personality and establishing comprehensive protection measures, which include raising awareness, prevention, early detection, protection and redress of damage in all spheres in which their life develops. The Law establishes trafficking in human beings for any purpose, prostitution, child pornography and forced marriage as forms of violence, among many others.

In the context of the health crisis caused by the COVID-19 pandemic, the following normative instruments and action plans have been fostered to minimise the possible negative consequences in the lives of many women victims of gender violence and victims of trafficking:

- ✓ [Extension of the Contingency Plan against gender violence in the context of the COVID-19 crisis: additional measures aimed at victims of trafficking, sexual exploitation and women in contexts of prostitution](#). This creates strategic and operational measures to prevent, control and minimise the possible negative consequences for the lives of many victims of gender violence resulting from lockdown measures. This extension specifically aims to guarantee the rights of victims of sexual exploitation and trafficking for purposes of sexual exploitation, as well as to provide services and resources to attend to their specific needs.

The measures included in the Extension include:

- The right to information for victims of trafficking and sexual exploitation and other women in contexts of prostitution.
- Detection and identification of victims of trafficking and sexual exploitation and cases of extreme vulnerability in contexts of prostitution.
- Comprehensive assistance and protection for victims of trafficking and sexual exploitation, as well as assistance in cases of special vulnerability.
- Comprehensive care services and safe accommodation are declared as essential.
- The right to Minimum Vital Income for victims who need it and who meet the requirements, as well as for those who are in an irregular administrative situation.

- Alternative accommodation, with public entities able to use tourist accommodation establishments.
- ✓ **Contingency Plan against gender violence in the context of the COVID-19 crisis** of 17 March 2020, extended with additional measures aimed at victims of trafficking, sexual exploitation and women in contexts of prostitution.
- ✓ **Royal Decree-Law 12/2020 of 31 March on urgent measures in the field of protection and assistance to victims of gender violence**, which declared essential all aid services, including accommodation services for victims of trafficking and sexual exploitation, as well as including these victims as beneficiaries of the minimum vital income (MVI).
- ✓ **Royal Decree-Law 20/2020 of 29 May, establishing the minimum vital income**, which has been partly amended by Royal Decree Law 3/2021, of 2 February, adopting measures to reduce the gender gap and other matters in the spheres of social security and the economy.
- ✓ **Law 1/2021, of 24 March on urgent measures regarding protection and aid for victims of gender violence**.

Finally, there was the recent approval by the Council of Ministers on 7 July 2021 of the "**Organic Bill for the Comprehensive Guarantee of Sexual Freedom**", which includes trafficking for the purpose of sexual exploitation in its scope of application, implementing specific measures for prevention, comprehensive aid for victims of trafficking and sexual exploitation (as specific resources), funds for redress to victims (including victims of trafficking for the purposes of sexual exploitation, Art. 55), measures relating to taking statements from victims of trafficking for the purposes of sexual exploitation, in addition to an improvement in the criminal classification of pandering and the introduction of renting space for prostitution into the Criminal Code.

In addition to the regulatory instruments described above, protocols and plans have been drawn up that include commitments by administrations and institutions geared towards fostering the detection and identification of victims so they may access systems of support and assistance and exercise their rights. The inter-institutional coordination protocols include the following noteworthy ones:

- ✓ **Framework Protocol for the Protection of Victims of Human Trafficking.** As mentioned above, this includes the procedure for the coordination and activity of the institutions and administrations with competences in the matter of trafficking in human beings, applicable to all persons who could be victims of this crime of trafficking in human beings for any purpose, with no discrimination based on sex, nationality or administrative situation in the case of alleged foreign victims.
- ✓
- ✓ **Regional protocols to implement the Framework Protocol.** To date, five regional protocols have been approved: in Galicia (prior to the Framework Protocol and updated in March 2012 to adapt it to the content of the Framework Protocol); in Catalonia (17 October, 2013); Extremadura (29 June, 2015), Navarre (approved by Foro Navarro against trafficking in women for sexual exploitation purposes on 2 December, 2016) and Madrid (20 January, 2017). Moreover, various Autonomous Community regions have indicated that they have begun the process of drafting protocols to implement this Framework Protocol.
- ✓ **Framework Protocol on specific action in relation to Unaccompanied Foreign Minors (MENAs).** This aims to set out the guidelines for coordination as regards the procedures to identify minors, determine their age and hand them over to the public entity for protecting minors, as well as the suitable functioning of the Unaccompanied Minors Registry (RMENA in Spanish), concentrating on ensuring the minor's greater interest. Furthermore, among the regulated matters, there are aspects concerning the protection of foreign minors as victims of trafficking.

- ✓ **Protocol of the Subdirector General for the Integration of Immigrants<sup>7</sup> to detect and act in the event of possible cases of human trafficking for the purpose of sexual exploitation.** This is aimed at professionals in the migration centres attached to the current Secretariat of State for Migration, as well as centres managed by NGOs subsidised by it, in order to promote the coordinated and uniform intervention of said professionals to help detect possible victims of human trafficking and refer them to appropriate resources for assistance and protection.
- ✓ **Annex to the Framework Protocol on protection of victims of human trafficking regarding action to detect and assist trafficking victims who are minors.** Approved by the Children's Observatory on 1 December 2017, this is intended to guide professionals in different spheres of activity (public authorities, bodies, entities and organisations from civil society) to recognise the signs of possible trafficking in minors, by setting out a catalogue of specific indicators to detect them, as well as giving them a streamlined process to refer them to protection and effective assistance services for their specific needs. It also aims to foster cooperation between institutions to improve assistance for minors who are victims of trafficking for any purpose of exploitation, minimising primary victimisation as far as possible via prevention, early detection and immediate action, and avoiding secondary victimisation they may suffer in the procedure as of their identification.
- ✓ **[Annex on "Healthcare Action against Trafficking for Sexual Exploitation" to the 2012 Common Protocol for a Healthcare Response to Gender Violence in the National Health System \(NHS\)](#).** This annex complements the content already included in the Common Protocol for a Healthcare Response to Gender Violence 2012.
- ✓ **Instruction 6/2016 by the Secretary of State for Security on actions by the state law enforcement bodies in the fight against trafficking in human beings and in collaboration with organisations and entities with proven experience in assisting victims.** This establishes that the National Police and the Civil Guard will set up a Social Interlocutor in human trafficking, which aims not only to provide a new tool to prevent and combat this type of crime, but also to foster coordination of action by the State Law Enforcement Bodies with the various organisations and social entities that deal with the assistance and recovery of the victims. The Instruction includes the procedures to detect and identify victims in accordance with the provisions of the Framework Protocol for the Protection of Victims of Trafficking in Human Beings of 28 October, 2011, indicating that the State Law Enforcement Bodies shall contact the specialised organisations for them to participate when a possible victim has been detected in the early identification and subsequent identification interview, thereby creating a formal space for civil society's participation in this process in order to ensure better protection and assistance for the victims.
- ✓ **Referral Procedure for Potential Victims of Human Trafficking who are Applicants for International Protection at Madrid-Barajas Airport.** Signed on 15 October, 2019, this is intended to detect the need to develop a specific referral procedure for potential victims of trafficking arriving through Barajas airport (Madrid). The aim of this Procedure is to set out guidelines for action on arrivals of foreigners of legal age or family units at Barajas airport who request international protection, when it is suspected that they may be subject to a situation of human trafficking, by any professional with assigned functions during this process, so they may be properly referred within the framework of the Reception System for applicants and beneficiaries of international protection, or if there is no appropriate vacancy within the State Reception System and it is deemed appropriate, within

<sup>7</sup> The General Sub-Directorate for the Integration of Immigrants was attached at the time of approval of the Protocol to the General Secretariat for Immigration and Emigration of the then Ministry of Employment and Social Security.

the framework of those that the Government Delegation against Gender Violence could make available.

The **2015-2018 Comprehensive Plan to Fight Against Trafficking in Women and Girls for the Purpose of Sexual Exploitation**<sup>8</sup> coordinated by the Government Delegation against Gender Violence. This plan was a comprehensive, multidisciplinary instrument specifically to fight against trafficking for sexual exploitation, providing a framework for the competences attributed to the different ministerial departments. It was the roadmap to carry out activities aimed at combating these forms of trafficking.

It approached the problem from a multidisciplinary perspective encompassing prevention and prosecution of the crime, as well as providing protection and assistance for victims, involving the various parties with responsibilities in the matter.

It was based on the following foundations: a human rights perspective focusing on the victim, a gender approach, priority for the minor's best interests, improved knowledge of situations of trafficking for sexual exploitation, prosecution of the crime, a comprehensive approach and improvement in cooperation and participation.

To do so, it listed 143 measures organised into 10 goals, with a structure divided into 5 priorities based on those included in the EU Strategy against trafficking in human beings:

- ✓ Priority 1: Strengthening the prevention and detection of trafficking.
- ✓ Priority 2: Identification, protection and aid for the victims of human trafficking.
- ✓ Priority 3: Analysis and improvement of knowledge for an effective response to trafficking for sexual exploitation.
- ✓ Priority 4: More active persecution of traffickers.
- ✓ Priority 5: Coordination and cooperation between institutions and participation from civil society.

When the Plan ceased to be in force, it was evaluated, the final report being submitted to the Council of Ministers on 20 October to learn from it. Then it was sent to the Equality Commission in the Lower House of Congress in order to report on the advances made in the matter<sup>9</sup>.

Finally, in February 2019, the **National Strategy against Organised Crime and Serious Crime (2019-23)**<sup>10</sup> was approved, establishing human trafficking as one of its priorities. It recognises the serious violation of rights that such crime represents and its clearly transnational nature, emphasising the need to address it from a multidisciplinary perspective that prioritises cooperation and coordination on the national and international level. The strategy specifies the following lines of action that, in one way or another, are described in this plan:

- ✓ Promoting international cooperation given the transnational nature of this type of crime. International cooperation and its various fields (technical, judicial and police support, exchange of information and experience, training, etc.) need to be enhanced, especially in the countries of origin of the victims who arrive in Spain.
- ✓ Boosting the activity of specific units engaged in prevention and the fight against trafficking in human beings and assistance for the victims.
- ✓ Strengthening the cooperation and coordination of all national public and private parties involved from a twofold perspective: preventing and countering this criminal phenomenon using multidisciplinary approaches that involve all the interested parties. This cooperation mainly involves the Ministries of Justice; Interior; Labour, Migrations and Social Security; Presidency,

<sup>8</sup> [Comprehensive Plan to Fight Against Trafficking in Women and Girls for the Purpose of Sexual Exploitation 2015-2018](#)

<sup>9</sup> [Final evaluation report of the Comprehensive Plan to fight against trafficking in women and girls for the purpose of sexual exploitation 2015-2018.](#)

<sup>10</sup> The strategy is available in Spanish, English and French.

Parliamentary Relations and Equality; Health and Consumer Affairs and non-governmental organisations.

- ✓ Increasing the intelligence work to broaden the knowledge and monitoring of the phenomenon, including new trends or *modus operandi* such as those linked to forced marriages, the use of the Internet, the presence of minors and economic flows. The aim is to update and improve the methods to meet this challenge and develop specific complementary actions.
  - ✓ Enhancing operational cooperation to produce useful shared intelligence and promoting the development of joint operations and investigations between our national police agencies and those of the victims' countries of origin or transit towards Spain.
  - ✓ Increasing and improving the prevention mechanisms of detection, identification, protection and assistance for the victims of human trafficking in Spain. Updating and renewing the existing victim assistance tools<sup>11</sup> and developing further methods to complement the activity in other spheres, especially with regard to the problems associated with minors.
  - ✓ Establishing a specific national strategic plan against human trafficking and exploitation. Under the coordination of the Ministry of Interior's Secretariat for State Security, this strategy will be jointly drafted by all parties involved.
- **the institutional and policy framework for action against THB (bodies responsible for coordinating national action against THB, entities specialised in the fight against THB, national rapporteur or equivalent mechanism, involvement of civil society, public-private partnerships);**

Under the provisions of Article 29.4 of the Council of Europe Convention on Action Against Trafficking in Human Beings and 19 of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims<sup>12</sup>, in April 2014 Spain established the post of National Rapporteur against Trafficking in Human Beings<sup>13</sup>.

This appointment led to a focal point on human trafficking being designated on 27 May, 2014 in order to support the National Rapporteur in his/her tasks. This focal point has been sited in the Counter-Terrorism and Organised Crime Intelligence Centre (CITCO). Its main mission is to provide advice and technical support for the National Rapporteur, in addition to providing statistical information and trends in matters of trafficking in human beings drawn up in the Intelligence Centre.

The functions that the post of Rapporteur and their Focal Point have been carrying out since then have been endorsed following approval of Royal Decree 146/2021 of 9 March, amending Royal Decree 139/2020 of 28 January, establishing the basic structure of the ministerial departments, and Royal Decree 734/2020 of 4 August, implementing the basic structure of the Ministry of the Interior. This Royal Decree states that the head of the Cabinet of the Secretary of State for Security will exercise the functions of National Rapporteur against Trafficking in Human Beings and that the Counter-Terrorism and Organised Crime Intelligence Centre will support her/him in her/his functions as the national focal point.

From the outset, the National Rapporteur's work has been guided by the two articles mentioned above, as well as by the conclusions of the Council Meeting of Justice and Home Affairs held in Luxembourg on 4 June 2009, which created an informal European Union network of national rapporteurs or equivalent mechanisms for trafficking in human beings as a forum for exchanging knowledge. In summary, the aforementioned work would involve:

- ✓ Supervising, monitoring and controlling the activities carried out by all the State institutions in the matter of human trafficking.

<sup>11</sup> Specifically, the Framework Protocol for the Protection of Victims of Trafficking in Human Beings.

<sup>12</sup> **Article 19. National Rapporteurs or Equivalent Mechanisms.** Member States shall take the necessary measures to establish national rapporteurs or equivalent mechanisms. The tasks of such mechanisms shall include the carrying out of assessments of trends in trafficking in human beings, the measuring of results of anti-trafficking actions, including the gathering of statistics in close cooperation with relevant civil society organisations active in this field, and reporting.

<sup>13</sup> Decision by the Secretary of State for Security of 3 April, 2014.

- ✓ Assessing trends in trafficking matters.
- ✓ Measuring the results of the actions taken.
- ✓ Gathering and quantitatively and qualitatively analysing the necessary information in cooperation with civil society organisations.
- ✓ Information on trafficking.
- ✓ Exchanging and sharing good practices.
- ✓ Developing common indicators and criteria to help compare the information and maintain its consistency.

In addition to the above, the Office of the Rapporteur intended to add a clear element of inter-institutional and multidisciplinary coordination that would make it possible to learn the most pressing problems and difficulties in preventing and combating such trafficking and in protecting and aiding the victims. Hence, periodically (twice a year) it carries out follow-up meetings with all the bodies of the general administration of the State with competences in the matter, as well as with the Spanish Network against Trafficking, which includes more than 30 specialised organisations from civil society. In addition to these follow-up meetings, the Rapporteur holds periodic meetings (3-4 times a year) with the aforementioned network in order to learn about the problems that NGOs face on a daily basis.

It is the responsibility of the Government Delegation against Gender Violence, in accordance with Article 3 of Royal Decree 455/2020 of 10 March, creating the basic structure of the Ministry of Equality, to propose the Government's policy against various forms of violence against women and in particular in the field of trafficking in human beings, with the powers of the Delegation being limited to the sphere of trafficking in women and girls for sexual exploitation. Specifically, it is attributed "the promotion of institutional coordination in matters of trafficking in women and girls for sexual exploitation, with no detriment to the competences in the matter held by other ministerial departments and public bodies."

In order to coordinate the activities of the Office of the Special Rapporteur and the Government Delegation against Gender Violence, the latter is one of the main bodies that participate in the Office of the Rapporteur's follow-up meetings, while the Office of the Rapporteur itself plays an active part in the Social Forum against Trafficking coordinated by the Government Delegation.

➤ **The current national strategy and/or action plan for combating trafficking in human beings (objectives and main activities, bodies responsible for its implementation, budget, monitoring and evaluation of results);**

One of the priorities of the aforementioned National Strategy against Organised Crime and Serious Crime (2019-23) is the fight against trafficking in human beings, addressing the phenomenon through different lines of action, notably the preparation of a specific national Strategic Plan against the trafficking and exploitation of human beings (PENTRA). The Secretary of State for Security is coordinating its preparation with participation from all the parties involved.

In its capacity as Focal Point of the National Rapporteur against Trafficking in Human Beings, the Counter-Terrorism and Organised Crime Intelligence Centre (CITCO) was entrusted by the Secretary of State for Security with coordinating a working group that has been able to count on experts from the main public bodies with competencies in the matter. Hence, the plan that is now being approved is the result of a coordinated effort by the representatives of the Ministries of the Interior; Equality; Justice; Inclusion, Migration and Social Security; Labour and Social Economy; Social Rights and the 2030 Agenda; Education and Vocational Training; the General Council of the Judiciary and the Attorney General of the State's Office. There has also been collaboration and valuable contributions from other parties such as the Ministry of Foreign Affairs, European Union and Cooperation; the Representation of the United Nations High Commissioner for Refugees (UNHCR); the Spanish Office of the International Labour Organization; the International Organization for Migration in Spain; and last but not least, the organisations and entities from civil society represented by the Spanish Network against Trafficking in Persons.

This plan echoes different recommendations made to Spain, including the one from the Council of Europe's Group of Experts on Action against Trafficking in Persons, GRETA, which in its last evaluation report for Spain urged our authorities to adopt a comprehensive plan as a priority to tackle human trafficking whatever the type of exploitation being tackled, improving the identification of victims and aid given to them.

The plan's structure is split into two large blocks: on the one hand, a legal framework for the phenomenon of human trafficking together with an updated view of its situation in Spain; and on the other, the goals and criteria upon which it has been designed.

The following core priorities have been established for effective action against trafficking in human beings and to defend the victims:

- A. Detection and prevention of trafficking in human beings.
- B. Identification, referral, protection, aid and recovery of victims of human trafficking.
- C. Prosecution of the crime.
- D. Cooperation and coordination.
- E. Improvement in knowledge.

For each of these priorities, lines of action and measures have been established that require fundamental work on legislative reform beforehand, as well as determined, coordinated commitment from all the parties involved.

Currently, the plan is only pending final approval.

In addition to PENTRA, the Labour and Social Security Inspectorate is heading the preparation of a Draft National Action Plan against Forced Labour:

After the preparatory work by the Public Administrations Working Group was completed, it was presented to the social stakeholders in July 2021. It will be presented to specialised entities (NGOs) in September 2021.

The resulting final draft will be reviewed by the Public Administrations and submitted for approval to the Council of Ministers.

The need for approval of this National Action Plan responds to the national interest in the fight against forced labour, as well as the need to comply with the Protocol of 2014 to the Forced Labour Convention, 1930. In Spain, the Protocol was ratified on 12 December 2017. Article 1.2 requires the Member States of the International Labour Organization (ILO) to develop a national policy and plan of action in order to achieve effective and sustained suppression of forced labour and take steps to enforce the Protocol's provisions.

The fight against this type of practice involves a significant number of government agencies and departments. Improvement in the coordination of all of them was understood from the outset as an indispensable condition to reinforce the effectiveness in the fight against forced labour. Thus, an interministerial working group was set up to draft the plan, including the different departments and bodies involved, specifically:

- ✓ Ministry of Labour and Social Economy
- ✓ Ministry of Inclusion, Social Security and Migrations
- ✓ Ministry of the Interior
- ✓ Ministry of Justice
- ✓ Ministry of Foreign Affairs, EU and Cooperation
- ✓ Ministry of Social Rights and 2030 Agenda
- ✓ Ministry for Equality
- ✓ Ministry of Education and Vocational Training
- ✓ Treasury
- ✓ Public Prosecution Service
- ✓ General Council of the Judiciary

Social stakeholders and specialised entities (NGOs) will also be included to participate.

Forced labour is defined in Article 2 of the ILO Convention 29 as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily". The relationship between forced labour, human trafficking and the crimes of labour exploitation are also taken into account.

This plan takes on special relevance since it is the first time that a specific instrument has been adopted in Spain aimed at addressing and combating forced labour from a systematic, strategic perspective, enabling proper identification of the victims and consequently effective measures aimed at protecting them.

Method and structure of the plan: The plan will have a foreseeable duration of 3 years. In order to effectively implement it, an Interministerial Working Group will be created, chaired by the Labour and Social Security Inspectorate (ITSS) with the functions of coordinating, monitoring and evaluating the progress of the actions in the plan.

The action plan contains activities organised into goals and grouped into 5 areas of action, following the lines provided in the protocol and the ILO's recommendation.

These areas are:

- ✓ Steps to analyse and study the phenomenon.
- ✓ Prevention, awareness and training measures.
- ✓ Detection, investigation and prosecution measures.
- ✓ Protection and support measures for victims.
- ✓ International coordination and cooperation measures.

➤ **Recent case-law concerning THB for different forms of exploitation.**

From 2017 to 2020, Chamber II of the Supreme Court issued the following judgments (STS):

**2017:**

**(1) STS 19/1/2017 (No. 1002/2016). Confirms** the Provincial Court Conviction (SAP) in Córdoba (Sec. 2) 7/18/2016 (Romanian trafficking).

Here, a Romanian female citizen had been sentenced for the crime of trafficking in human beings for sexual exploitation and another crime of incitement to prostitution to 6 years in prison, ancillary orders and to compensate one victim with €6,000 and another with €10,000.

The judgment is interesting because of the analysis of the pre-trial evidence as legitimate proof of the charge, stating: "*[The fact] that the duly summoned defence lawyer joined the proceedings when they had already started does not invalidate the proof if he was given the opportunity to intervene and ask questions, even if he did not make use of that power*".

**(2) STS 15/3/2017 (No. 167/2017). Confirms** the Madrid Provincial Court conviction (SAP) (Sect. 2) 2/6/2016 (Chinese victims of sex trafficking and Chinese criminal organisation).

Here, 7 Chinese citizens had been sentenced for committing 4 crimes of trafficking in human beings concurrently with as many crimes of prostitution, and for a crime against the rights of foreign citizens. The leader of the organisation received custodial sentences of 46 years and 5 days; members with no leadership position 40 years and 4 days in prison, ancillary orders, and to jointly and severally compensate each victim with €20,000.

From a doctrinal point of view, this STS (Supreme Court Judgment) highlights: the analysis of the validity requirements of the pre-trial evidence (and its video screening in court); the extent of undue delay in relation to the principle of effective legal protection; as well as the validity of the videos recorded by mobile phone by one of the protected witnesses, which is considered legal documentary evidence.

**(3) STS 24/3/2017 (No. 196/2017). Confirms** the La Coruña Provincial Court conviction (SAP) (Section 2) 7/29/2016 (trafficking for forced labour of Spanish victims with disabilities committed by Portuguese citizens).

Here, a Portuguese man had been convicted of four crimes of trafficking in human beings for forced labour, four crimes of imposition of degrading treatment, one crime of continuous theft and one crime of injuries, to a total of 35 years and 6 months' prison and ancillary orders; another individual man of the same nationality for four crimes of trafficking in human beings for forced labour, four crimes of imposition of degrading treatment, one crime of continuous theft and one crime of illegal possession of weapons, to a total of 36 years prison and ancillary orders; and a female Portuguese citizen for a crime of degrading treatment and another of illegal possession of weapons to 1 year and 6 months in prison and ancillary orders. It imposes different civil liabilities to satisfy the victims.

Doctrinally, this Supreme Court Judgment (STS) is very relevant in relation to the study of crimes against moral integrity due to the imposition of degrading treatment, admitting it as concurrent and cumulative with the crime of human trafficking for slavery, servitude or forced labour; again it pronounces on the validity of the pre-trial evidence and on the probative potential of the indirect or circumstantial evidence in relation to the assessment of the referential witness evidence (social workers, Red Cross volunteers, municipal police, national police, doctors, residents of the victim's town, etc.).

**(4) STS 29/3/2017 (No. 214/2017). Confirms** Valencia Provincial Court's conviction (SAP) (Sect. 2) 3/30/2016 (sex trafficking of Nigerian victims by a Nigerian man).

Typical characteristics of Nigerian trafficking: a victim from Benin City was living in dire need and economic precariousness; a passport was provided; she was subjected to the rite of voodoo to be bound to the debt contracted; she continued by bus on the route via Niger to Morocco, then an illegal crossing to Spain by boat, then transfer by bus to Valencia; confiscation and retention of documentation; €70,000 debt of servitude; forced into prostitution with the warning that otherwise they would they would kill TPG853 or harm her relatives who remained in Nigeria; physical assaults; continual rapes; etc.). Here, a Nigerian

man was sentenced as the perpetrator of the crime of illegal immigration of persons, a crime of trafficking in human beings for sexual exploitation, the victim being a minor, two crimes of incitement to prostitution, two continual crimes of rape and one crime of abortion with the penalties totalling 35 years, ancillary orders and to compensate the victim with €80,000.

Doctrinally, this Supreme Court Judgment (STS) delves into the victims' statements when there is no other evidence for prosecution: there is a need for concurrence of objective elements for corroboration so that they can disprove the presumption of innocence. It analyses the crime of trafficking in human beings with its difference with the crime of fostering illegal immigration; it explains the different phases of the crime of trafficking (recruitment, transfer and reception); and concludes with a paradigmatic assessment of this criminal phenomenon: *The criminal mechanics typical of human trafficking for sexual exploitation objectify the female victims and humiliate and abuse them with all kinds of mistreatment, including violence, sexual assault and, if it arises, forced abortion.*

**(5) STS 3/5/2017 (No. 312/2017). Confirms** Barcelona Provincial Court's conviction (SAP) (Sect. 2) 15/2/2016 (sex trafficking of Nigerian victims by a Nigerian criminal organisation).

Here, 8 individuals who were members of a criminal organisation engaged in human trafficking were sentenced, finding: a crime of belonging to a criminal organisation; two crimes of illegal immigration, human trafficking and prostitution in the same activity; forgery of documents and two crimes of prostitution. Sentences were imposed of 20 years, 6 months and 1 day in prison (maximum as responsible and participatory in all crimes); 13 years 6 months and 1 day; 12 years 6 months 1 day in prison; and 8 years and 1 day (4 active participants in the organisation who were not charged with certain crimes); and two minor sentences (2 years, 6 months and 1 day; and 6 months for two individuals whose participation was limited to secondary crimes). According to their liability, they were sentenced to compensate the different victims with different amounts (€20,000, €50,000, €80,000 and €100,000).

The Supreme Court Judgment (STS) analyses the crime's requirements of belonging to a criminal organisation; the validity of the pre-trial evidence; and recalls in relation to the accusatorial principle that *"The penalty requested by the prosecution cannot be exceeded except in cases of error in which the requested penalty is under the legal minimum"*.

**(6) STS 5/10/2017 (No. 656/2017). Revokes** the conviction by the Provincial Court of León (SAP) (10/7/2016 (Brazilian transsexual victim of sex trafficking by Brazilians), acquitting the two convicted of the crime of trafficking in human beings. The cassational judgment does not consider that the victim's testimony is corroborated by objective data. It rejects the credibility of the victim's testimony.

## 2018:

**(7) STS 29/1/2018 (No. 47/2018). Confirms** the Order of 2/23/2017 from the National Court (Common Sentence Enforcement Service). The appellant who had achieved her transfer to Spain (in application of the 1996 Treaty between Spain and Panama) to serve in a Spanish penitentiary centre the sentence imposed by a Panamanian Court for the crime of trafficking in human beings wished her sentence to be reduced, understanding that the facts for which she was convicted would be classified not in Article 177 bis CP but in the crime of prostitution established in Article 1887 CP. The Court recalls the general doctrine on the suppositions and limits to adapting the judgment handed down by the Courts of another State, in cases of transfer of convicted persons and after carrying out a balanced examination of the specific case (*the Panamanian judgment states that there were four women condemned who acted jointly related to the Facebook account "Ninfas coquetas", with the events dated in 2013. The victims were four young people [...] All of them were recruited in the Republic of Colombia and transferred to Panama to practise prostitution. There was no force or physical violence, but there was partial limitation of mobility and a situation of vulnerability due to the victims' difficult economic situation*). It concludes that these facts are classified in Spain in Article 177 bis CP.

**(8) STS 20/2/2018 (No. 108/2018). Confirms** Madrid Provincial Court's conviction (SAP) (Sec. 2) of 3/30/2016 (sex trafficking of Nigerian women).

Here, four individual Nigerian citizens (two women and two men) were convicted, three of them as perpetrators of the crime of trafficking in human beings for sexual exploitation, at the same time also representing a crime related to prostitution (6 years and 1 month in prison for two of them and 5 years and 1 month for another) and one as responsible for a crime of concealment (1 year in prison). Two others were also convicted of one crime of illegal detention (two sentences of 7 years in prison) and one of them for a crime of illegal immigration (6 months in prison). All of them were sentenced to jointly and severally compensate the victim with €75,000.

This Supreme Court Judgment (STS) reiterates the doctrine that the crime of trafficking "*[...] can be committed at various times, from recruitment to accommodation, and any of the required elements to be considered as concurrent with this crime may occur, that is: violence, intimidation, deception or abuse in any of the aforementioned situations, at any of the aforementioned times, provided the typical purpose is stated*".

**(9) STS 20/3/2018 (No. 132/2018). Confirms** the Las Palmas Provincial Court conviction (SAP) (Sec. 1) 5/15/2017 (Romanian sex trafficking and begging victims and Romanian convicts).

A Romanian man (23 years in prison) and a Romanian woman (13 years and 2 days in prison) were sentenced, the man for committing three crimes of trafficking in human beings (one for the purpose of begging, another as concurrently necessary for a crime of coercive prostitution of a person of legal age; and yet another as concurrent and necessary for a crime of coercive prostitution of a minor); the woman for being co-offender of the latter two crimes. Both of them were sentenced to jointly and severally compensate each victim with €9,000.

The relevant doctrine of the Supreme Court Judgment relates to the evidence prepared before the trial: *it may serve to support a conviction, though the lawyers who took part in the evidence examined before trial do not coincide with those who assumed the defence in the trial proceedings.*

**(10) STS 22/3/2018 (No. 144/2018). Confirms** the Lleida Provincial Court conviction SAP (Lérida) (Set. 1) 5/30/2017 (typical sex trafficking of Nigerian victim) for the crimes of trafficking, acquitting one of the accused of the crime of conspiracy.

Three Nigerian citizens were convicted of one crime of **human trafficking** as concurrently necessary for a crime of coercive prostitution and a crime against the rights of foreign citizens (one to a sentence of 7 years and 6 months in prison; another to a sentence of 6 years and 6 months in prison; and a third to a 5-year prison sentence). A Nigerian woman was also convicted of conspiracy to commit a crime of trafficking in human beings (3 years in prison).

The relevant doctrine is in relation to the legitimacy of the telephone interceptions and the agreed extensions. It confirms the reiterated doctrine on the concurrence of crimes of trafficking with the crimes of illegal immigration and prostitution, recognising the competence of Spanish jurisdiction to prosecute conduct consisting of "*working from France to send the Nigerian woman, victim of the crime, to Spain*". It justifies why the acquittal for the crime of conspiracy is correct (*The conspiracy belongs to a phase of the iter criminis ("path of the crime") prior to the execution, so it is a preparatory act found between having the idea (which is not punishable) and imperfect forms of execution as a kind of advance collaboration that certain perpetrators shift towards the area of exceptional incrimination of some stated intentions, but which, in any case, is characteristic for the conjunction of the pactum scaeleris or prior agreement. The intention to execute the crime must be firm, serious, real and definitive, according to the reiterated case-law of this Court*").

**(11) STS 17/4/2018 (No. 187/2018). Confirms** the Balearic Provincial Court conviction (SAP) (Sec. 2) 4/17/2017 (trafficking for begging; Bulgarian victims).

Two Bulgarian citizens were sentenced for two crimes of trafficking in human beings for begging and for a misdemeanour of assault without causing injury (each of them sentenced to 10 years in prison) and to compensate one of the victims with €6,420 and another with €6,000.

An appeal was turned down by the Supreme Court Judgment for not having attempted the appeal through the Supreme Court of Justice in accordance with the provisions of Art. 846 tertius 1 LECrim since the reform of the procedural rule by Law 41/2015 of 5 October was already in full force.

**(12) STS 14/12/2018 (No. 648/2018). Confirms** Madrid Provincial Court's conviction (SAP) (Sec. 1) of 21/12/2017 (sex trafficking with Nigerian victim).

A male Nigerian citizen was sentenced for crimes of trafficking in human beings, against the rights of foreign citizens, illegal detention and forgery of documents to a total of 12 years and 4 months in prison plus ancillary orders and to compensate the victim with €60,000.

The Supreme Court ruling focuses on analysing the motives for the appeal as regards aspects related to the presumption of innocence and effective legal protection. There is no debate on any matter regarding the legal classification of the facts prosecuted.

### 2019:

**(13) STS 12/2/2019 (No. 77/2019). Confirms** Madrid Provincial Court's conviction (SAP) (Sec. 7) 20/3/2018 (sex trafficking of Nigerian victims and Nigerian criminal organisation).

Four Nigerian citizens were sentenced: two women and one man for three crimes of trafficking in human beings in concurrence with and thus also representing three crimes of prostitution (two with minors) and one crime of fostering illegal immigration to a total of 37 years and 3 months in prison for each of them; and one man for the same crimes except illegal immigration to a sentence of 32 years and 9 months in prison. The four were sentenced to jointly and severally compensate each of the three protected witnesses for the moral damage caused, as victims of human trafficking and coercive prostitution, with €75,000.

The Supreme Court Judgment concentrates on analysing aspects related to the validity of telephone tapping, the value of the protected witnesses' testimony and the probative value of photographic recognition. In relation to the crime of trafficking, it reiterates the doctrine that in trafficking crimes, as many crimes are committed as there are victims, while not being able to admit criminal continuity. It also insists on the legal doctrine that the crime of trafficking in human beings does not absorb the crime of illegal immigration.

**(14) STS 24/7/2019 (No. 396/2019). Confirms** Madrid Provincial Court's conviction (SAP) (Sec. 5) 29/6/2018 (typical sex trafficking of Nigerian victims and Nigerian criminal organisation).

Five Nigerian citizens were convicted with sentences far exceeding 30 years in prison for crimes of trafficking in human beings for sexual exploitation, coercive prostitution and fostering illegal immigration in relation to four victims (one of them a minor). Likewise, they were sentenced to *jointly and severally compensate each of the four protected witnesses with €15,000 for the moral damage caused and for the earnings obtained with them; protected witness no. 1 with €56,000; protected witness no. 2 with €35,000; protected witness no. 3 with €11,600; and protected witness no. 4 with €11,500.*

This Supreme Court Judgment (STS) is of great doctrinal relevance as regards the crime of trafficking in human beings as it analyses and systematises all of the case-law doctrine on: the stages in which the crime takes place (capture, transfer and exploitation), its nature as a preparatory crime (necessary for consummation of another); concurrent links with the crime of illegal immigration and prostitution; on the typical requirements of the criminal organisation and the nature of participation in criminal organisations (*"In criminal organisations, it is not necessary for all participants to carry out each one of the elements of the type [of statutory crime], but to individually make an essential contribution to the functioning of the "system". The typical requirements are met identically, whether their essential contribution helps one purpose or another, provided that such contribution is essential. This nuance distinguishes perpetration from complicity"*); on the need to use pre-trial prepared evidence in these crimes, ratifying previous doctrine (*"It is a rule of experience that in crimes of trafficking in human beings, the pressure on witness-victims subjected to trafficking and exploitation is very intense, so that recourse to pre-trial evidence should be common in view of the highly probable incidence of the victim's disappearance, flight abroad or*

*failure to appear at the trial, ordinarily motivated by fear of the possible consequences of a statement against their perpetrators”); on the objectifying effects of the crime on the victims, etc. In fact, it acts as an educational manual analysing the crime of trafficking in all of its aspects, not only legal ones but also criminological ones. It is a must-read for anyone who wishes to learn about this criminal phenomenon.*

**(15) STS 27/9/2019 (No. 430/2019).** This confirms the conviction by the Supreme Court of Justice (STSJ) of the Valencia Community Region (Civil and Criminal Court) of 18/1/2019 (typical sex trafficking of Nigerian victims in the sphere of a Nigerian criminal organisation).

Two female Nigerian citizens were given sentences exceeding 20 years in prison for committing two crimes of trafficking in human beings for sexual exploitation committed by organisation or association, as concurrently necessary for a crime of coercive prostitution and against the rights of foreign citizens. Other female Nigerian nationals were also sentenced to prison terms for crimes of coercive prostitution. In all cases, compensation was imposed in favour of the victims of trafficking and prostitution (from €10,000 to €50,000).

The Supreme Court Judgment (STS) analyses different aspects of the evidence of the crime (significantly the scope and value of "anonymous" testimonies and their identification) and other matters that affect the principles of public access, *audi alteram partem* (hearing both sides) and equality of arms.

**(16) STS 13/11/2019 (No. 554/2019).** This confirms the Oviedo Provincial Court conviction (SAP) (Sec. 2) 11/1/2019 (typical sex trafficking with Romanian victims within the context of a Romanian criminal organisation).

Two Romanian citizens were sentenced as the perpetrators of three crimes of trafficking in human beings, seven of prostitution, against workers' rights, and for money laundering, to prison terms far exceeding 50 years. Likewise, two Romanian individuals were convicted as accomplices to these crimes. Compensations were imposed for ten victims (three of trafficking and seven of prostitution) for different amounts (from €6,000 to €40,000).

The Supreme Court Judgment (STS) is concerned with the following issues: Required signs of criminal activity, reasons and judicial control in carrying out the telephone interceptions; suppositions in assessing the victims' statements; assumptions about the validity of uncontradicted pre-trial witnesses' statements; application of the aggravated subtype of criminal organisation; the crime of money laundering; crime against workers' rights (Art. 311 CP); and the value of the accused's statement if they are silent during the trial. It reiterates the doctrine on the crime of trafficking in human beings; and on complicity in human trafficking crimes.

**(17) STS 19/11/2019 (No. 564/2019).** Confirms the Catalan Supreme Court of Justice (STSJ) conviction (Civil and Criminal Court) 4/16/2018 (sex trafficking of transsexual Venezuelan victims).

In the first instance judgment, a Venezuelan man was sentenced as the perpetrator of two crimes of trafficking in human beings for the purpose of sexual exploitation to 11 and 6 months in prison, with ancillary orders, and to compensate one of the injured parties with €6,000.

The Supreme Court Judgment (STS) is concerned with analysing evidence prepared before the trial and third-party witness evidence.

## 2020:

**(18) STS 20/2/2020 (No. 63/2020).** Confirms the conviction by Malaga Provincial Court (SAP, Sec. 2) 15/2/2016 (typical sex trafficking of Nigerian victims in the sphere of a Nigerian criminal organisation).

In the first instance sentence, a Nigerian man was sentenced as the perpetrator of two crimes of trafficking in human beings and a crime of fostering illegal immigration to a prison sentence of 12 years and 3 months in prison; another as an accessory to these crimes to a sentence of 5 years and 4 months; two Nigerian

women for a crime of trafficking in human beings and a crime of fostering illegal immigration to a prison sentence of 6 years, 11 months and 7 days each. There were others convicted of other crimes (forgery and aggravated fraud).

The Supreme Court Judgment (STS) concentrates on dismissing all the reasons on which the appeal is based, which fundamentally affect alleged violations of the presumption of innocence and defects of the evidence examined.

**(19) STS 14/5/2020 (No. 146/2020). Confirms** the conviction by the National Court (Sec. 2) 18/2/2019 (typical sex trafficking of Nigerian victims in the sphere of a Nigerian criminal organisation).

In the first instance sentence, a Nigerian woman was sentenced for two crimes of trafficking in human beings for sexual exploitation, concurrently necessary for two crimes related to prostitution and forgery of documents to a sentence of 19 years in prison and ancillary orders; a Nigerian man for two crimes of trafficking in human beings for sexual exploitation, concurrently necessary for two crimes related to prostitution, to 16 years and 2 days in prison and ancillary orders; a Nigerian citizen for a crime of trafficking in human beings for the purpose of sexual exploitation, concurrently necessary for a crime related to prostitution and forgery of documents, to a sentence of 6 years in prison and ancillary orders; and another Nigerian woman and man for two prostitution offences each.

The Supreme Court Judgment (STS) is concerned with analysing the existence of a criminal organisation and the examination requirements in relation to the aggravated sub-types of Art. 177 bis and 187.1 and 2 of the CP. It gives an interesting evaluation of the difficulties of the victim to express her victimisation in these crimes.

**(20) STS 12/6/2020 (No. 306/2020). Confirms** the Catalan Supreme Court of Justice (STSJ) conviction (Civil and Criminal Court) 18/10/2019 (sex trafficking of Romanian victim).

A Romanian male citizen was sentenced for two crimes of trafficking in human beings for sexual exploitation, concurrently necessary for a crime of prostitution, and a misdemeanour of injuries, to 14 years in prison; and a Romanian woman for a crime of trafficking in human beings to a sentence of 5 years in prison.

The Supreme Court Judgment (STS) recalls that there are as many crimes of trafficking as there are victims, taking into account the very personal nature of the legal interest protected (*"It concerns, therefore, legal interest whose axiological rank impedes the subsumption put forward by the appellant. There will be as many crimes—concurrent yet separate and cumulative—as victims. The objectification of a person, their tragic degradation to the condition of an object stripped of all dignity, cannot be valued in vague terms. The protected legal interest acquires full meaning in its genuine individuality. The forms of exploitation described in Art. 177 bis. 1 of the CP, when they are projected onto several people, are not limited to causing plural damages; on the contrary, they affect the sameness of each and every one of the victims"*).

**(21) STS 12/6/2020 (No. 306/2020). Confirms** the conviction by the Supreme Court of Justice (STSJ) of Las Palmas, Gran Canaria (Civil and Criminal Court) of 19/10/2019 (typical sex trafficking of Nigerian victims in the sphere of a Nigerian criminal organisation).

The first instance judgment sentenced three Nigerian citizens (two women and one man) to 10 years' imprisonment each for the crime of trafficking in human beings, resulting in concurrence with a related crime of prostitution.

The Supreme Court Judgment analyses the aggravated subtype of criminal organisation in Article 177 bis CP and the concurrence with the related crime of prostitution. It also analyses certain evidentiary elements (value of the protected victims' testimony) and the requirements for telephone interceptions. The statement that there is no breach of the accusatorial principle is relevant in the case because "The concretion of the sentence of factual aspects that were already included in the accusatory pleading from

the Public Prosecution Service does not violate this principle, as it is the subject of evidence and confrontational debate in the trial".

**(22) STS 23/7/2020 (No. 422/2020). Confirms** the conviction by the Supreme Court of Justice (STSJ) of the Valencia Community Region (Civil and Criminal Court) of 19/10/2019 (typical sex trafficking of Nigerian victims in the sphere of a criminal Nigerian organisation).

The first instance judgment sentenced two Nigerian citizens (a woman and a man) to 9 years' imprisonment each for the crime of trafficking in human beings, resulting in concurrence with a related crime of prostitution and a crime of illegal immigration according to Article 318 bis 1 of the CP. Moreover, the male was convicted of a crime of sexual abuse by Art. 181 et seq. to 1 year and 1 month in prison.

In cassation, different aspects were analysed regarding the reasoning behind the sentence, the right to defence, error in evaluating documents, etc.

**(23) STS 30/10/2020 (No. 565/2020). Confirms** the Madrid Provincial Court (Sec. 5) conviction (SAP) of 11/12/2019 (typical sex trafficking with Bulgarian victims within the context of a Bulgarian criminal organisation).

The first instance judgment sentenced each of the Bulgarian citizens accused to 20 years' imprisonment each for the crime of trafficking in human beings, resulting in concurrence with two related crimes of prostitution. One of them was also convicted for a crime of continued sexual aggression (9 years in prison) and others for a crime of non-continuous sexual aggression (6 years in prison).

The judgment contains important reminders about the evaluation of victims' testimonies (*Granting the victim the standing of administrative legality is not an invitation to mendacity, nor should it raise doubts about the credibility of the testimony, STS (Supreme Court Judgment) 891/2014, of 23 December. The aim of this protection is to safeguard the victims' human rights, prevent further victimisation and encourage them to take part as witnesses in criminal proceedings against the perpetrators.* It would be manifestly contradictory for this aim if the very possibility of obtaining the legal benefits that protect the victims is turned into a case of evidentiary invalidity of their incriminating statements, STS 214/2017, of March 29); their credibility (*the possibility of contradictions has been highlighted, but such contradictions are possible when there is no memorised story, and the time elapsed and the emotional burden can give rise to small mismatches between the two statements, which cannot mean they lack incriminating content, or substantial weight for judicial conviction*). The explanations about the evaluation of conduct as implying perpetration or complicity are also relevant.

### **13. Please provide information on measures taken in your country in respect to the following recommendations made in GRETA's second evaluation report:**

- **Finalise the development of a comprehensive and coherent statistical system on THB by compiling reliable statistical data from all main actors, including specialised NGOs, on measures to protect and promote the rights of victims as well as on investigations, prosecutions, convictions and compensations in human trafficking cases;**

The Counter-Terrorism and Organised Crime Intelligence Centre (CITCO) under the Secretary of State for Security as the focal point of the National Rapporteur against trafficking in human beings, gathers all relevant information on trafficking in human beings, including data related to the identification of victims of this crime.

In this sense, it should be remembered that according to Section 1 of Article 59 bis of Organic Law 4/2000 of 11 January on the rights and freedoms of foreigners in Spain and their social integration, "*The competent authorities shall adopt the necessary measures to identify the victims of trafficking in persons in accordance with the provisions of Article 10 of the Council of Europe Convention on Action against Trafficking in Human Beings of 16 May, 2005*".

To do so, Royal Decree 557/2011 of 20 April, approving the Regulations to Organic Law 4/2000 on rights and freedoms of foreigners in Spain and their social integration, establishes in section 1 of Article 141 that "*The identification of the victim shall be carried out by the police authorities with specific training in investigating trafficking in human beings and in identifying its victims*".

CITCO has a database (BDTRATA) that collects all the Law Enforcement Bodies' preventive and reactive activities aimed at identifying victims of trafficking and exploitation of human beings and catching traffickers and exploiters.

The official figures for Spain in this matter can be seen, as mentioned above, via the following link: [Trafficking and exploitation of human beings in Spain. Statistical balance 2016-20.](#)

In order to progress in the availability of statistical data on trafficking, and following the recommendations of the European Parliament report via resolution on 10 February 2021 on the implementation of Directive 2011/36/EU, the Ministry of Equality has begun work to carry out a macro-study on trafficking in women and girls for sexual exploitation with the aim of learning accurate knowledge about the new forms of trafficking in women for sexual exploitation and gaining precise knowledge about the situation of such women and girls who are the victims. This macro-study is intended to improve knowledge as an essential complement to effectively help fight trafficking, providing the necessary data to make a diagnosis of the real situation and thereby improving the efficiency of public policies and decision-making in the matter.

Furthermore, with no detriment to the powers attributed to the Ministry of the Interior's Counter-Terrorism and Organised Crime Intelligence Centre in charge of the database on trafficking in human beings, containing information from the Law Enforcement Bodies concerning the crime of trafficking in human beings (crime trends, victims identified, investigations, persons detained, etc.), the Government Delegation against Gender Violence also includes data related to the trafficking of women and girls for sexual exploitation in a specific chapter of the Annual Statistical Bulletin on Gender Violence. In addition to the data provided by the Ministry of the Interior on investigations into the crime of trafficking by the police forces and the information from the Attorney General of the State's Immigration Unit regarding the judicial processes for trafficking in human beings that affect women for the purpose of sexual exploitation, said bulletin includes human rights data on the assistance given to women and girls who show signs of trafficking for sexual exploitation.

This data is provided within three months from the end of the year by non-profit organisations that give specialised aid to victims of trafficking for sexual exploitation. However, as a result of the state of alarm declared on 14 March due to the international COVID-19 pandemic, throughout 2020 administrative deadlines were suspended. They were resumed in June, but this affected the presentation of the information corresponding to 2019 by specialised organisations and its systematisation by this Government Delegation, which has thus been delayed compared to previous years. Therefore, currently the systematisation of the information corresponding to 2019 is being finalised so it can be included later in the Annual Bulletin.

Therefore, the latest data currently available comes from Chapter 8 of the Annual Statistical Bulletin on trafficking in women and girls for sexual exploitation in 2018. This information can be found in the DGVG (Government Delegation against Gender Violence) website:

[https://violenciagenero.igualdad.gob.es/violenciaEnCifras/boletines/boletinAnual/docs/B\\_E\\_Anuar\\_2018.pdf](https://violenciagenero.igualdad.gob.es/violenciaEnCifras/boletines/boletinAnual/docs/B_E_Anuar_2018.pdf)

- **Strengthen the prevention of THB for the purpose of labour exploitation by addressing the risks of THB in the agricultural sector, monitoring of recruitment and temporary work agencies and supply chains, and reviewing the regulatory systems concerning migrants working as home care workers.**

Together with the Labour Inspectorate, the National Police has developed annual specific control campaigns in different areas, where inspections have multiplied on both provincial and national levels.

The National Police is participating in drawing up the "National Action Plan against Forced Labour, Obligatory Labour and Other Forced Human Activities", as well as in an agreement on coordination between the Labour and Social Security Inspectorate and the State Law Enforcement bodies in the fight against irregular employment and social security fraud.

In order to detect and prevent human trafficking in agricultural work, the Civil Guard carries out numerous inspections in agricultural farms, most of which are done in collaboration with the Labour Inspectorate. Another important aspect where special attention is maintained is in the surveillance of places where, through previous experience, it is known that workers have been housed in precarious conditions, as well as in migrant settlements where it is known that people who were exploited for work have been taken on.

As for checking on temporary employment companies and recruitment agencies, crimes of this type have not been detected in these types of entities. In fact, in the investigations carried out, organised groups pretending to be this type of company have been detected, but in reality a company has never been founded. Occasionally they have used the legislation on self-employed workers by hiring services on agricultural farms and using people in an irregular situation in Spain to carry out the work. Usually the exploiters are people of the same nationality as the victims who have been in Spain for some time, taking advantage of knowledge of the employment system and the trust immigrants place in a person from their own country. Prevention of this type of crime, together with information campaigns aimed at these people, concentrates on monitoring the movements of migrant groups, as well as their places of accommodation, especially in times of agricultural campaigns when a great many workers are needed for a very specific period of time.

As regards the regulatory systems for domestic work, in Spain there are regulations. It is obligatory in all cases for workers to be registered with the social security system under the household employees regime, with contribution payments made by the worker or employer depending on the number of hours worked. In this activity, fraud has been found not in a lack of regulations, but in a lack of registration with the social security system.

- **Increase efforts to proactively identify victims of trafficking for the purpose of labour exploitation by reinforcing the role and training of labour inspectors and involving civil society, trade unions and the private sector;**
  - ✓ At the international level, both the National Police and the Civil Guard participate periodically in the *EMPACT Action Days* or *Joint Action Days* of the EMPACT platform, in the field of the fight against THB for its different purposes (sexual exploitation, labour and trafficking of minors).
  - ✓ Increase in joint inspections with the Provincial Labour Inspectorates.
  - ✓ Specific control campaigns in the agricultural sector depending on the time of year and the harvesting sector. For these campaigns, there is an exchange with police officers from the countries of origin (mainly Portugal and Romania), with officers coming from those countries to carry out joint labour inspections, thus providing the language and culture to approach potential victims.
  - ✓ In the event of detection of THB victims by the Provincial Labour Inspectorates or NGOs specialising in assistance for victims, the police service is immediately informed in order to provide aid and protection, and they are referred to the corresponding specialised entity.
  - ✓ Collaboration has been bolstered in training both inspectors and the State Enforcement Bodies, with both commonly taking part, and there are now communication channels set up to meet the needs of coordination. The collaboration agreement is currently being updated between the Ministry of Labour and Social Security and the Ministry of the Interior on Coordination between the Labour and Social Security Inspectorate and Law Enforcement in the fight against irregular employment and Social Security fraud.
  
- **Improve the timely and proactive identification of THB victims among asylum seekers and persons placed in immigration detention, as well as migrants arriving in the autonomous cities of Ceuta and Melilla.**

- ✓ Interviews held by staff specialising in the field.
  - ✓ Permanent communication with the Asylum and Refugee Office. In the event of detection of a possible THB victim, the corresponding police service is immediately notified.
  - ✓ International coordination and cooperation with the countries of origin and transit.
  - ✓ Border controls with specialised, specifically trained staff.
  - ✓ Preparation of police intelligence at operational and strategic levels.
- **Provide assistance, including safe accommodation adapted to the specific needs of male victims of THB;**

Given the lack of specialised resources to assist men who are victims of human trafficking, the Civil Guard has signed agreements with the A21 Association and the REMAR association, obtaining resources to house and assist these people when they are detected as possible victims of human trafficking.

- **Take a proactive approach and increase outreach work to identify child victims of trafficking, provide adequate support and services for them, including appropriate accommodation, and ensure long-term monitoring of their reintegration;**

In Spain, various measures have been adopted in recent years to ensure child victims of trafficking receive assistance suited to their specific needs and special vulnerability.

In this vein, on 1 December 2017 the Children's Observatory approved the Annex to the Framework Agreement on victims of trafficking of human beings regarding action to detect and aid minor victims. This is intended to guide professionals in different spheres of activity (public authorities and civil society bodies, entities and organisations) to recognise the signs of possible trafficking in minors, by providing a catalogue of specific indicators to detect them, as well as giving them a streamlined procedure to refer them to services to protect them and give effective assistance for their specific needs.

It also aims to foster cooperation between institutions to improve assistance for minors who are victims of trafficking for any kind of exploitation, minimising primary victimisation as far as possible via prevention, early detection and immediate action, and avoiding secondary victimisation they may suffer in the procedure from the moment they are identified.

To look deeper into this matter, there are plans to set up a working group to develop a protocol for prevention, early detection and intervention in cases of sexual exploitation and trafficking of minors subject to protection measures and in residential care.

Coordination between the parties involved, beginning with the process of detection, aid and protection for the minor victim, is essential in order to be able to provide a comprehensive battery of action. Accompaniment and access to the international protection procedure must also be guaranteed for girls, boys and adolescents who are victims of THB. The need to evaluate the presentation of an application for international protection should be expressly mentioned when there is a risk for the integrity or life of the child victim of trafficking in the event they are to be returned to their country of origin. In such cases, they must be guaranteed to receive adapted, full information on their right to request international protection and on the asylum procedure.

In order to raise awareness and knowledge about the indicators that may act as warning signs of a situation of THB, it is advisable to promote specific training among professionals who interact with minors who are potential victims.

Recently, **Organic Law 8/2021 of 4 June on comprehensive protection for children and adolescents against violence** was approved.

This law addresses the rights of girls, boys, and adolescents to protection against all forms of violence. It is intended to respect their dignity, freedom and equality, ensuring their character can develop freely in an environment free of violence.

It is a law with a comprehensive, multidisciplinary approach, covering aspects of prevention (awareness, training, etc.), protection (early detection and assistance), reintegration of the victim's breached rights, and their recovery. Furthermore, there is an intention to set up a uniform protection system throughout the State against the breach of rights implied by violence against children and adolescents, rectifying the fragmentation of the current model.

Specifically, the following can be pointed out in relation to trafficking in human beings:

- ✓ Generally, this law takes into account the forms of violence that girls suffer specifically because they are girls and it thus intends to tackle and prevent them while stressing that only a society that educates about respect and equality will be able to eradicate violence towards girls. They are attacked in many ways because of their age and sex, but also because of their origin, sexual orientation, gender identity, disability, social class, state of health or other prohibited reasons for discrimination.
- ✓ According to Article 2, in any case, violence is understood to be physical, psychological or emotional abuse; physical, humiliating or degrading punishment; neglect or negligent treatment; threats, insults and slander; exploitation, including sexual violence, corruption, child pornography, prostitution, bullying, sexual harassment, cyberbullying, gender-based violence, genital mutilation, **trafficking in human beings for any purpose**, forced marriage, child marriage, unsolicited access to pornography, sexual extortion, public dissemination of private data or any violent behaviour in their family environment.
- ✓ Title IV on action in minor protection centres states the obligation for protection centres to implement action protocols whose effectiveness will be subject to evaluation, and which will include action to be followed in order to prevent, detect early and act when there are possible situations of violence. Within the context of the aforementioned protocols, aid is also reinforced as regards specific action on prevention, early detection and intervention in possible cases of abuse, sexual exploitation and **human trafficking** whose victims are minors subject to protective measures and who reside in residential centres.
- ✓ Chapter II of Title V introduces specific regulations concerning certifications from the Central Registry of Sex Offenders, which is now called the Central Registry of Sex Offenders and Human Trafficking, implementing and extending protection of minors by improving the system of demanding the requirement of not having committed crimes against freedom, sexual security or human trafficking in order to carry out activities that imply habitual contact with minors.
- ✓ Article 43.4 4. The public authorities shall guarantee comprehensive aid via specialist services for the recovery of boys, girls and adolescents who are victims of violent crimes and, in any case, of crimes of a sexual nature, trafficking or gender violence.
- ✓ Article 54. Intervention in cases of sexual exploitation and trafficking of minors subject to protection measures. The protocols referred to in the previous article must contain specific action on prevention, early detection and intervention in possible cases of abuse, sexual exploitation and human trafficking whose victims are minors subject to protective measures and who reside in residential centres under the responsibility of child protection centres. The gender perspective, as well as the necessary measures for coordination with the Public Prosecution Service, Law Enforcement and the other social stakeholders involved, will be most especially taken into account when preparing these activities.
- ✓ Article 57. Requirement to enter professions, trades and activities that involve regular contact with minors. In order to enter and work in any profession, trade or activity that involves regular contact with minors, it will be a requirement not to have been convicted by a final judgment for any crime against sexual freedom and security classified in Title VIII of Organic Law 10/1995 of 23 November of the Criminal Code, as well as for any crime of trafficking in human beings classified in Title VII bis of the Criminal Code. To this end, whoever seeks to enter such professions, trades or activities must prove this situation by providing a certification from the Central Registry of Sex Offenders.
- ✓ The first final Provision amends the Criminal Procedure Act, approved by Royal Decree of 1 September, 1882. In this sense, Article 449 tercius establishes:  
"The fourth final Provision amends Organic Law 6/1985 of 1 July on the Judiciary. Section 5 of Article 433 bis is modified, and is now stated in the following terms:

"5. The Ongoing Training Plan for the Judicial Profession will contain specific multidisciplinary courses on legal protection of the principle of equality between women and men, discrimination based on sex, multiple discrimination and violence against women, as well as trafficking in all its forms and manifestations, and training in the implementation of the gender perspective in interpreting and applying the Law."

- ✓ The sixth final Provision amends Organic Law 10/1995 of 23 November of the Criminal Code. Section 1 of Article 132 is amended as regards trafficking. It is now worded as follows:  
"In crimes of attempted homicide or injuries in Articles 149 and 150, in the crime of habitual mistreatment provided for in Article 173.2, in crimes against freedom, in crimes against sexual freedom and security, and in crimes of trafficking of human beings; when the victim is a person under eighteen years of age, the prescriptive period will be calculated from the moment the victim reaches thirty-five years of age, and if she/he dies before that age, from the date of death."
- ✓ Eighth final Provision. Amendment to Organic Law 1/1996 of 15 January on Legal Protection of Minors, partial amendment to the Civil Code and the Act on Civil Procedure, and amending Sections 1 and 2 of Article 17, which are now worded as follows:  
"1. A situation of risk will be deemed to be one in which, due to circumstances; family, social or educational conflicts or lack of resources; the minor is harmed in their personal, family, social or educational development, in their well-being or in their rights in such a way that, without reaching the extent, intensity or persistence that would form the basis for declaring a situation of abandonment with the law acting to assume guardianship, the intervention of the competent public administration is required to eliminate, reduce or compensate the difficulties or maladjustment that affect the minor and prevent their abandonment and social exclusion, without having to be separated from their family environment.

2. The following will be considered as risk indicators, among others:

- i) Identification of mothers as victims of trafficking."

This Organic Law is also related to the 2030 Agenda in several spheres, and very specifically with the *SDG16 Promote just, peaceful and inclusive societies*, and its Target 16.2: "End abuse, exploitation, trafficking and all forms of violence and torture against children" within Goal 16 of promoting just, peaceful and inclusive societies, and very directly with the Goals of the Sustainable Development Strategy for 2030. Specifically, the targets are:

- ✓ Eliminate all forms of violence against all women and girls in the public and private spheres, including trafficking and sexual and other types of exploitation, following up with the momentum given by the Pact of State against gender violence and following the recommendations from the GREVIO group of experts' Statement; and include sufficient funding and budget implementation mechanisms in all public administrations, as well as fostering specific measures to fight sexual violence and provide protection, prevention and redress in compliance with the provisions of the Istanbul Convention and the Warsaw Convention.
- ✓ Improve protection for especially vulnerable migrants such as victims of trafficking for sexual or labour exploitation, as well as their children by strengthening the reception system specifically designed for this group.

This Organic Law is also interconnected with the commitments and goals of the State Pact against gender violence and other legislative initiatives undertaken by the Ministry of Equality such as the Comprehensive Organic Bill to Guarantee Sexual Freedom, as well as with a planned Comprehensive Law against Trafficking in Human Beings for all purposes, in order to address the fight against sexual violence, as well as establish a circuit of protection, prevention and especially redress in relation to this violence and which must contain a children's perspective to protect the freedom and right to life of girls in our country.

Finally, it is worth noting the subsidies received by the Association for the Prevention, Reintegration and Aid for Prostituted Women (APRAMP).

The entity has been receiving a subsidy charged to the tender of 0.7% of personal income tax continually without interruption since 1992. Between then and 2017, the total amount allocated came to €14,174,024.31. Until 2008, the funding went exclusively to programmes geared towards the social group of "women".

As of 2009 and until 2017, although the amount allocated to this group was still the largest share, a programme has been funded to the tune of €676,150.00 intended for the collective of "children" and evaluated in the General Subdirectorate of Policies for Children and Adolescents, "**Strategies to detect, identify and aid sexually exploited minors**".

In 2017, the programme slightly modified its statement of intent by including "minors who are victims of trafficking": "**Strategies to detect, identify and care for minors who are victims of trafficking and sexual exploitation**", placing emphasis on analysing the existence of minors in different types of sexual exploitation, as well as the profiles and causes that may lead them to fall into these circuits. Its goals also include an analysis of the impact of campaigns to prevent sexual exploitation in spheres of prostitution, collaboration with other entities in awareness campaigns for society and professionals in the sphere of trafficking in human beings, and reinforcement of inter-institutional coordination with public and private entities and resources working with minors at risk of being sexually exploited or who are victims of trafficking.

Since 2017 this programme has been funded with €469,200:

✓ 2017	-----	€112,700
✓ 2018	-----	€120,000
✓ 2019	-----	€125,000
✓ 2020	-----	€111,500

The programme is implemented in the Autonomous Community regions of the Principality of Asturias, Castile & León, Madrid, the Region of Murcia and Andalusia.

There are three key points to carry it out:

- ✓ Coordination with those responsible for the protection of children, State Law Enforcement Bodies and the public prosecutor's office for minors and immigration.
- ✓ The mobile unit (MU) project. Permanent observation by the MU enables possible victims to be detected, identified and referred to Law Enforcement.
- ✓ Coordination and networking.

Based on this structure, the programme is carried out in the following phases:

- ✓ Analysis and coordination with those responsible for children at the local and national level, and NGOs at the international level.
- ✓ Analysis of information and strategies for intervention.
- ✓ Awareness, information, training and networking.
- ✓ Reception and accommodation of minors during the appeal for protection. Through a duty-appointed measure, they are provided with a procedure for recovery and insertion adapted to their circumstances, with permanent coordination with the services responsible for the guardianship of these minors. There is also a gender approach towards restoring the rights of victims of trafficking and sexual exploitation.

This project is constantly aware of four essential approaches for specialised, comprehensive assistance:

- ✓ Gender
- ✓ Immigration
- ✓ Age
- ✓ Causes of sexual exploitation

- 
- **Ensure that all possible victims of trafficking, including foreign victims, are offered a recovery and reflection period and all forms of assistance and protection that go with it.**

In all cases where the specialist units of the State Law Enforcement Bodies identify a victim, the victim is provided with the corresponding recovery and reflection period indicated in Article 59 bis of Organic Law 4/2000 on Rights and Freedoms of Foreigners in Spain and their Social Integration. They are offered and granted this completely regardless of their collaboration or not with the authorities in investigating crimes.

All of this is formalised by filling in the information form on the rights of THB victims.

Furthermore, immediate notification is given to the specialist NGOs that work together with the police forces and the Public Prosecutor's Office to carry out their functions as regards the assistance and protection required by the victims.

The recovery and reflection period lasts for at least 90 days.

### Part III - Statistics on THB

14. Please provide the following statistics, per year starting with 2017, where available disaggregated as indicated below:

- **Number of presumed victims and identified victims of THB in the sense of having been recognised by a state institution or mandated NGO as bearers of rights to services provided for by the Convention (with breakdown by sex, age, nationality, form of exploitation, internal or transnational trafficking, and body which identified them).**

The official figures for Spain in this matter can be seen, as mentioned above, via the following link: [Trafficking and exploitation of human beings in Spain. Statistical balance 2016-20.](#)

- **Number of victims of THB identified as part of the asylum procedure (disaggregated by sex, age, nationality, form of exploitation).**

	Sex	Nationality	Type of exploitation
2017	WOMAN	NIGERIA	SEXUAL
	WOMAN	GHANA	SEXUAL
2018	WOMAN	NIGERIA	SEXUAL
	WOMAN	EL SALVADOR	LABOUR
2019	WOMAN	IVORY COAST	SEXUAL
	WOMAN	EL SALVADOR	LABOUR
	WOMAN	EL SALVADOR	LABOUR
	MALE	EL SALVADOR	LABOUR
	WOMAN	EL SALVADOR	LABOUR
	WOMAN	EL SALVADOR	LABOUR
	WOMAN	EL SALVADOR	LABOUR
	MALE	EL SALVADOR	LABOUR
	MALE	EL SALVADOR	LABOUR/SEXUAL
	WOMAN	EL SALVADOR	LABOUR/SEXUAL
	MALE	EL SALVADOR	LABOUR/SEXUAL
	MALE	EL SALVADOR	LABOUR/SEXUAL
	WOMAN	EL SALVADOR	LABOUR/SEXUAL
	MALE	EL SALVADOR	LABOUR/SEXUAL
	2020	WOMAN	GUINEA CONAKRY
WOMAN		DEMOC. REP. CONGO	SEXUAL
WOMAN		DEMOC. REP. CONGO	SEXUAL
WOMAN		NIGERIA	SEXUAL
WOMAN		NIGERIA	SEXUAL
WOMAN		GUINEA CONAKRY	NOT KNOWN
2021	WOMAN	DEMOC. REP. CONGO	FORCED MARRIAGE
	WOMAN	SENEGAL	FORCED MARRIAGE
	WOMAN	SENEGAL	FORCED MARRIAGE
	WOMAN	COLOMBIA	SEXUAL

- **Number of victims of THB who received assistance (disaggregated by sex, age, nationality, form of exploitation, internal or transnational trafficking).**

The Government Delegation against Gender Violence gathers very valuable information via the reports that back the activities financed by public subsidies for projects to support women and girls who are victims of human trafficking for sexual exploitation and their minor or disabled children. This information is given in the aforementioned statistical bulletins published on the DGVG website:

<https://violenciagenero.igualdad.gob.es/violenciaEnCifras/boletines/boletinAnual/home.htm>

Specifically, the latest data published referring to 2018 is included in Section 8 of the following report:

[https://violenciagenero.igualdad.gob.es/violenciaEnCifras/boletines/boletinAnual/docs/B\\_E\\_Anuar\\_2018.pdf](https://violenciagenero.igualdad.gob.es/violenciaEnCifras/boletines/boletinAnual/docs/B_E_Anuar_2018.pdf)

➤ **Number of child victims of THB who were appointed legal guardians.**

Data not available.

➤ **Number of victims of THB granted a recovery and reflection period (disaggregated by sex, age, nationality, form of exploitation).**

2017 - Total 122: 113 women and 9 men.

Number of victims	Number of victims
3	2
4	2
6	1
3	4
9	1
5	1
7	2
9	1
6	2
6	1
6	1
3	1

Nationality	Number of victims	Nationality	Number of victims
CAMEROON	1	KENYA	1
CHINA	21	MEXICO	3
COLOMBIA	6	MOLDAVIA	1
IVORY COAST	7	NICARAGUA	8
DOMINICA	1	NIGERIA	41
ERITREA	1	PARAGUAY	7
THE GAMBIA	3	PERU	1
GHANA	3	DOMINICAN REP.	1
GUINEA	3	UKRAINE	2
HONDURAS	1	VENEZUELA	10

**2018:** Total 86: 76 women and 10 men.

Number of victims	Number of victims	Number of victims
1	9	1
2	3	3
2	5	1
4	1	1
4	2	1
3	3	1
10	2	1
7	1	1
3	4	1
7	2	

Nationality	Number of victims	Nationality	Number of victims
ARGENTINA	2	HONDURAS	1
BOLIVIA	1	MOROCCO	1
BRAZIL	2	MEXICO	2
CAMEROON	2	MOLDAVIA	2
CHINA	4	NIGERIA	25
COLOMBIA	8	PAKISTAN	1
COMOROS	1	PARAGUAY	3
IVORY COAST	3	CENTRAL AFRICAN REP.	1
CUBA	1	REP. OF THE CONGO	1
ECUADOR	1	DOMINICAN REP.	1
GUATEMALA	1	EL SALVADOR	1
GUINEA	7	URUGUAY	1
EQUATORIAL GUINEA	2	VENEZUELA	11

**2019:** Total 83: 75 women and 8 men.

Number of victims	Number of victims	Number of victims
1	8	6
2	3	3
3	5	1
3	3	2
5	1	1
2	1	1
3	2	2
5	1	3
2	2	1
9	1	1

Nationality	Number of victims	Nationality	Number of victims
ARGENTINA	1	MOROCCO	2
BRAZIL	5	MEXICO	1
CAMEROON	4	NICARAGUA	12
CHINA	2	NIGERIA	14
COLOMBIA	16	PAKISTAN	2
IVORY COAST	2	PARAGUAY	4
CUBA	1	SENEGAL	1

GUINEA	5	SOMALIA	1
EQUATORIAL GUINEA	1	UKRAINE	3
HONDURAS	1	VENEZUELA	5

**2020:** Total 51: 48 women and 3 men.

Number of victims	Number of victims	Number of victims
1	2	1
3	3	3
2	3	1
4	4	1
4	1	1
6	1	2
2	2	1
2	1	

Nationality	Number of victims	Nationality	Number of victims
BRAZIL	2	NIGERIA	4
CHINA	1	PARAGUAY	7
COLOMBIA	17	DEM. REP. CONGO	3
GUINEA	5	SENEGAL	1
HONDURAS	3	VENEZUELA	2
MOROCCO	3	VIETNAM	1
NICARAGUA	2		

**2021 (up to 18/07/2021).** Total 26: 15 women and 11 men.

Number of victims	Number of victims	Number of victims
1	2	1
2	2	1
2	1	1
1	1	1
3	3	2
1	1	

Nationality	Number of victims	Nationality	Number of victims
CHINA	7	PARAGUAY	3
COLOMBIA	6	PERU	1
INDIA	3	REP. CONGO	1
NIGERIA	3	DOMINICAN REP.	1
PAKISTAN	1		

- **Number of victims of THB granted a residence permit, with an indication of the type of the permit and its duration (disaggregated by sex, age, nationality, form of exploitation).**

### 2017

- ✓ The Secretary of State for Security **granted 32** Temporary Residence and Work Authorisations for Exceptional Circumstances for collaboration (with police and judicial authorities) for Victims of Trafficking in Human Beings, with **8 denied**.

- ✓ The Subdirectorate General for Immigration, dependent on the Secretary of State for Migration, **granted 24** Temporary Residence and Work Authorisations for Exceptional Circumstances due to the applicants' personal situation.
- ✓ **Six** application procedures were shelved (due to another type of authorisation being granted, return of the interested party to his/her country of origin, voluntary return, etc.).

## 2018

- ✓ The Secretary of State for Security **granted 29** Temporary Residence and Work Authorisations for Exceptional Circumstances for collaboration (with police and judicial authorities) for Victims of Trafficking in Human Beings, with **7 denied**.
- ✓ The Subdirectorate General for Immigration, dependent on the Secretary of State for Migration, **granted 30** Temporary Residence and Work Authorisations for Exceptional Circumstances due to the applicants' personal situation.
- ✓ **Three** application procedures were **shelved**.

## 2019

- ✓ The Secretary of State for Security granted **45** Temporary Residence and Work Authorisations for Exceptional Circumstances for collaboration (with police and judicial authorities) for Victims of Trafficking in Human Beings, with **7 denied**.
- ✓ The **Subdirectorate** General for Immigration, dependent on the Secretary of State for Migration, granted **27** Temporary Residence and Work Authorisations for Exceptional Circumstances due to the applicants' personal situation.
- ✓ **Four** application procedures were **shelved**.

## 2020

- ✓ The Secretary of State for Security **granted 42** Temporary Residence and Work Authorisations for Exceptional Circumstances due to collaboration (with police and judicial authorities) for Victims of Trafficking in Human Beings, with **15 denied**.
- ✓ The Subdirectorate General for Immigration, dependent on the Secretary of State for Migration, **granted 21** Temporary Residence and Work Authorisations for Exceptional Circumstances due to the applicants' personal situation.
- ✓ **One** application procedure was **shelved**.

## 2021 (up to July)

- ✓ The Secretary of State for Security **granted 38** Temporary Residence and Work Authorisations for Exceptional Circumstances due to collaboration (with police and judicial authorities) for Victims of Trafficking in Human Beings, with **9 denied**.
- ✓ The Subdirectorate General for Immigration, dependent on the Secretary of State for Migration, **granted 15** Temporary Residence and Work Authorisations for Exceptional Circumstances due to the applicants' personal situation.

### ➤ **Number of persons given refugee status or subsidiary/complementary protection on the grounds of being victims of THB (disaggregated by sex, age, nationality, form of exploitation).**

The information available is under the section "*Number of victims of THB identified as part of the asylum procedure (disaggregated by sex, age, nationality, form of exploitation).*"

### ➤ **Number of victims of THB who claimed compensation, who were granted compensation and who effectively received compensation (disaggregated by sex, age, nationality, form of exploitation, with an indication of whether the compensation was provided by the perpetrator or the State, and the amount awarded).**

*Compensations recognised in the judgment:*

**2017:**

€1,500 (28 Russian women) • €3,000 (1 Nigerian woman; 5 Russian women; 1 Venezuelan woman and 1 Venezuelan man) • €4,500 (1 Brazilian woman) • € 6,000 (1 Bulgarian man; 5 Romanian women) • €6,420 (1 Bulgarian man) • €9,000 (2 Romanian women) • €10,000 (1 Romanian woman) • €20,000 (1 Nigerian woman) • €60,000 (1 Bulgarian woman; 2 Nigerian women) • €75,000 (1 Nigerian woman).

**2018**

• €3,000 (2 Brazilian women); • €4,500 (1 Romanian woman); • €6,000 (1 Romanian woman); • €7,000 (1 Paraguayan woman) • €10,000 (2 Nigerian women) • € 12,000 (2 Nigerian women) • €15,000 (1 Nigerian woman) • €20,000 (3 Nigerian women) • €26,500 (1 Nigerian woman) • €30,000 (2 Nigerian women) • €33,200 (1 Romanian woman) • €35,000 (2 Nigerian women) • €40,000 (1 Nigerian woman) • €50,000 (3 Nigerian women) • €70,000 (2 Nigerian women) • €75,000 (3 Nigerian women) • €82,600 (1 Nigerian woman) • €100,000 (1 Nigerian woman).

**2019:**

• €2,500 (2 Nigerian women); • €3,000 (1 Brazilian woman); • €4,000 (1 Brazilian woman) • €(5,000 (1 Nigerian woman); • €6,000 (3 Romanian women); • €9,000 (3 Romanian women); • €20,000 (3 Nigerian women) (3 Romanian women); • €26,000 (1 Bulgarian woman); • €30,000 (1 Romanian woman); • €35,500 (1 Nigerian woman) • €40,000 (1 Romanian woman); • €50,000 (Nigerian woman); • €60,000 (1 Nigerian woman); • €73,000 (2 Romanian women); • €82,700 (1 Nigerian woman) • €90,000 (1 Bulgarian woman).

**2020:**

• €2,000 1 Venezuelan woman; • €9,000 6 Venezuelan women; • €10,000 4 Nigerian women; 2 Romanian women; • €20,000 1 Moldovan woman, 1 Romanian woman; • €25,000 3 Nigerian women; • € 30,000 1 Nigerian woman; • €33,150 1 Venezuelan woman; • €36,000 1 Spanish woman • €50,000 7 Nigerian women; • €61,000 1 Nigerian woman; • €104,000 1 Nigerian woman.

*Compensation paid before judgment:*

**2017:** 33 Russian women.

**2018:** 5 Romanian women; 1 Nigerian woman (partial).

**2019:** 1 Colombian woman (labour).

**2020:** None.

*Express waiving of compensation:*

**2017:** 1 Belarusian woman.

**2018:** 5 Romanian women; 1 Nigerian woman (partial).

**2019:** 1 Bosnian woman; 2 Brazilian women.

**2020:** 1 Romanian woman

- **Number of victims of THB who received another form of financial support from the State, with the indication of the amount received.**

Data not available.

➤ **Number of victims of THB who received free legal aid.**

Data not available.

➤ **Number of victims of THB who were returned or repatriated to/from your country (disaggregated by sex, age, country of destination, form of exploitation).**

Data not available.

➤ **Number of investigations into THB cases (disaggregated by type of exploitation, with an indication of the number of victims concerned).**

	2017	2018	2019	2020
Police reports for sex trafficking	73	61	93	68
Victims of sex trafficking	155	128	294	160

	2017	2018	2019	2020
Police reports for labour trafficking	17	18	17	20
Victims of labour trafficking	58	94	192	99

	2017	2018	2019	2020
Police reports on trafficking for begging	2	1	4	0
Victims of trafficking for begging	3	12	22	0

	2017	2018	2019	2020
Police reports for trafficking for criminal activities	1	2	4	2
Victims of trafficking for criminal activities	1	3	31	7

	2017	2018	2019	2020
Police reports for trafficking for forced marriages	3	1	3	2
Victims of trafficking for forced marriages	3	1	3	3

➤ **Number of prosecutions in THB cases (disaggregated by type of exploitation, with an indication of the number of victims and defendants concerned).**

**2017**

**Trafficking for sexual exploitation**

Accusatory pleadings	Number of accused	Number of victims	Age of the victims		Sex of the accused			Sex of the victims	
			Adults	Minors	Men	Women	Legal entities	Men	Women
22	83	94	87	7	42	40	1	0	94

**Trafficking for labour, exploitation and begging**

Accusatory pleadings	Number of accused	Number of victims	Age of the victims		Sex of the accused		Sex of victims	
			Adults	Minors	Men	Women	Men	Women
2	3	3	2	1	3	0	2	1

**Trafficking for forced marriage**

Accusatory pleadings	Number of accused	Number of victims	Age of the victims		Sex of the accused		Sex of the victims	
			Adults	Minors	Men	Women	Men	Women
1	2	1	0	1	1	1	0	1

**2018**

**Trafficking for sexual exploitation**

Accusatory pleadings	Number of accused	Number of victims	By number of victims		By gender of the accused		By gender of the victims	
			Adults	Minors	Men	Women	Men	Women
24	69	46	42	4	35	34	0	46

**Trafficking for labour, exploitation and begging**

Accusatory pleadings	Number of accused	Number of victims	Age of the victims		Sex of the accused		Sex of the victims	
			Adults	Minors	Men	Women	Men	Women
2	5	34	34	0	4	1	26	8

**Trafficking to commit criminal conduct**

Accusatory pleadings	Number of accused	Number of victims	By number of victims		By gender of the accused		By gender of the victims	
			Adults	Minors	Men	Women	Men	Women
1	3	1	0	1	2	1	0	1

**2019**

**Trafficking for sexual exploitation**

Accusatory pleadings	Number of accused	Number of victims	Age of the victims		Sex of the accused			Sex of the victims	
			Adults	Minors	Men	Women	Trans	Women	Trans
34	152	85	82	3	86	65	1	79	6

**Trafficking for labour exploitation**

Accusatory pleadings	Number of accused	Number of victims	Age of the victims		Sex of the accused		Sex of the victims		
			Adults	Minors	Men	Women	Men	Women	Not accounted for
3	10	14	14	0	10	0	8	3	3

**Trafficking for forced marriage**

Accusatory pleadings	Number of accused	Number of victims	Age of the victims		Sex of the accused		Sex of the victims	
			Adults	Minors	Men	Women	Men	Women
2	10	3	0	3	5	5	0	3

**Trafficking for exploitation in begging**

Accusatory pleadings	Number of accused	Number of victims	Age of the victims		Sex of the accused		Sex of the victims	
			Adults	Minors	Men	Women	Men	Women
1	2	1	0	1	1	1	0	1

**2020****Trafficking for sexual exploitation**

Accusatory pleadings	Number of accused	Number of victims	Age of the victims		Sex of the accused			Sex of the victims	
			Adults	Minors	Men	Women	Legal entities	Men	Women
30	110	84	79	5	55	53	2	0	84

**Trafficking for labour exploitation**

Accusatory pleadings	Number of accused	Number of victims	Age of the victims		Sex of the accused		Sex of the victims	
			Adults	Minors	Men	Women	Men	Women
5	12	25	25	0	9	3	20	5

**Trafficking for begging**

Accusatory pleadings	Number of accused	Number of victims	Age of the victims		Sex of the accused		Sex of the victims	
			Adults	Minors	Men	Women	Men	Women
1	2	1	0	1	1	1	0	1

**Trafficking to commit criminal conduct**

Accusatory pleadings	Number of accused	Number of victims	Age of the victims		Sex of the accused		Sex of the victims	
			Adults	Minors	Men	Women	Men	Women
1	6	10	10	0	6	0	10	0

➤ **Number of convicted perpetrators of THB (disaggregated by sex, age, nationality, form of exploitation).**

The number of parties convicted for crimes of trafficking in human beings from 2017 to 2020 comes to 196 men, 104 women and 1 legal entity (the latter by Pontevedra Provincial Court Judgment (SAP, Section 2) 6/27/2017 (No. 147/2017) (sex trafficking)).

**Convicted of the crime of trafficking in human beings (perpetrators/accomplices/accessories) (\*)**

	2017		2018		2019		2020	
	Men	Women	Men	Women	Men	Women	Men	Women
Albania	0	0	0	0	0	0	2	0
Belarus	0	1	0	0	0	0	0	0
Bosnia	0	0	0	0	2	1	0	0
Brazil	0	0	0	1	0	2	0	0
Bulgaria	8	3	0	0	3	1	0	0

Cameroon	0	0	1	0	0	0	0	0
Colombia	0	0	0	0	0	1	0	0
Spain	6	1	3	0	2	0	3	0
Ghana	0	1	0	0	0	0	0	0
Moldavia	0	0	0	0	0	0	1	0
Nigeria	8	9	13	20	13	13	12	16
Paraguay	0	0	0	2	0	0	0	0
Poland	1	0	0	0	0	0	0	0
Portugal	1	0	0	0	0	0	0	0
Sierra Leone	0	1	0	0	0	0	0	0
Romania	3	3	11	6	7	6	4	1
Russia	1	3	0	0	0	1	0	0
Venezuela	1	0	0	0	0	0	4	2
<b>Total</b>	<b>29</b>	<b>22</b>	<b>28</b>	<b>29</b>	<b>27</b>	<b>25</b>	<b>26</b>	<b>19</b>

(\*) In most of the judgments, other people were convicted for committing the ultimate crimes of exploitation or for other related crimes of the most varied nature (illegal immigration, forgeries, drug trafficking, against workers' rights, prostitution etc.).

## Year of birth of the accused

### 2017

**1952:** 1 Polish man. **1953:** 1 Portuguese man. **1954:** 1 Spanish man. **1966:** 2 Spanish men. **1970:** 1 Spanish man. **1971:** 1 Nigerian man. **1973:** 1 Nigerian man. **1974:** 1 Spanish woman; 1 Romanian man; 1 Romanian woman; 1 Russian woman. **1975:** 1 Spanish man. **1976:** 1 Spanish man; 1 Romanian woman. **1977:** 1 Belarusian woman; 1 Nigerian woman; 1 Nigerian man. **1978:** 1 Sierra Leonean woman. **1979:** 1 Nigerian woman. **1980:** 1 Nigerian woman; 2 Nigerian men; 1 Russian woman. **1981:** 1 Nigerian woman. **1982:** 1 Russian man. **1983:** 1 Nigerian man. **1984:** 1 Russian woman. **1986:** 1 Nigerian woman; 1 Romanian man. **1988:** 1 Ghanaian woman. **1992:** 1 Romanian woman. **1994:** 1 Nigerian woman. **Adults of unknown birth date:** 8 Bulgarian men; 3 Bulgarian women; 1 Nigerian woman; 1 Romanian woman; and 1 Venezuelan man.

### 2018

**1950** 1 Romanian man; 1 Romanian woman; **1960** 1 Spanish man; **1962** 1 Spanish man; **1967** 2 Nigerians **1968** 1 Brazilian woman; **1969** 1 Romanian man; 2 Romanian women **1970** 1 Nigerian man; 1 Romanian woman **1971** 1 Nigerian woman; **1972** 2 Romanian women **1973** 1 Nigerian woman; **1974** 1 Nigerian man; 1 Romanian woman **1976** 3 Nigerian men; **1978** 1 Nigerian man; 1 Nigerian woman; 1 Paraguayan woman **1979** 2 Nigerian women; **1980** 2 Nigerian women; **1981** 1 Spanish man; 1 Nigerian man **1982** 4 Nigerian women; **1983** 1 Nigerian man; 1 Nigerian woman; **1986** 1 Nigerian man; 2 Nigerian women **1987** 1 Nigerian woman **1988** 1 Nigerian woman; **1989** 1 Cameroonian man; 1 Nigerian man **1991** 1 Nigerian man; **1992** 1 Romanian man **1993** 3 Romanians **1994** 1 Romanian **1995** 1 Romanian **Adults of unknown birth date:** 1 Nigerian woman; 1 Paraguayan woman; 2 Romanian men; 2 Romanian women.

### 2019

**1955:** 1 Spanish man. **1958** 1 Spanish man; 1 Romanian man. **1966.** 1 Brazilian woman. **1967** 1 Brazilian woman. **1969** 1 Nigerian woman. **1970** 1 Nigerian man. **1970** 1 Bosnian man; 1 Nigerian man; 1 Romanian woman. **1973** 1 Bosnian woman. **1974** 1 Nigerian man. **1976** 1 Nigerian woman; 1 Romanian woman. **1978** 1 Nigerian woman; 1 Russian woman. **1979** 1 Nigerian man; 1 Nigerian woman; 1 Romanian man. **1980** 1 Nigerian man; 1 Romanian woman. **1982** 2 Nigerian women; 1 Romanian man; 1 Romanian woman; **1983** 1 Nigerian man; 1 Nigerian woman. **1984** 1 Romanian man; 3 Nigerian women. **1990** 1 Nigerian man. **1991** 1 Romanian man; 1 Nigerian woman. **1992** 1 Nigerian woman.

**1993** 1 Nigerian man; 1 Nigerian woman. **1994** 1 Romanian man; 1 Romanian woman. **1995** 1 Bosnian man. **Adults of unknown birth date:** 1 Nigerian man; 1 Nigerian woman.

**2020**

**1955** 1 Spanish man. **1967** 1 Spanish man. **1969** 1 Venezuelan woman. **1974** 1 Spanish man; **1975** 1 Venezuelan woman. **1976** 1 Nigerian man. **1977** 1 Nigerian woman. **1978** 1 Nigerian man 1 Venezuelan man. **1979** 1 Nigerian man 1 Romanian man. **1980** 2 Nigerian men; 1 Nigerian woman. **1981** 1 Nigerian woman. **1982** 1 Nigerian man. **1984** 2 Nigerian women; 1 Romanian man. **1987** 2 Nigerian women. **1989** 1 Nigerian man. **1991** 1 Romanian woman. **1992** 1 Nigerian woman. **1993** 1 Romanian man; **1995** 1 Nigerian woman. **1997** 1 Nigerian woman. **Adults of unknown birth date:** 1 Moldovan man; 5 Nigerian men; 5 Nigerian women; 3 Venezuelan men.

- **Number of convictions for THB, with an indication of the form of exploitation, whether the victim was adult or child, the type and duration of the penalties, and whether they were effectively enforced or suspended.**

Number of judgments prosecuting trafficking crimes 2017 - 2020												
	2017			2018			2019			2020		
	①	②	③	①	②	③	①	②	③	①	②	③
Sex trafficking	18	2	4	20	6	5	18	5	4	16	5	2
Labour Trafficking	0	0	6	0	0	1	1	1	1	0	0	0
Begging	1	0	0	1	0	0	0	0	0	0	0	0
Forced marriage	0	0	0	1	0	0	0	0	0	0	0	0
Illegal activities	0	0	1	0	0	0	1	0	0	0	0	0
Mixed *	1	0	1	1	0	0	0	0	0	0	0	0
<b>Total</b>	<b>20</b>	<b>2</b>	<b>12</b>	<b>23</b>	<b>6</b>	<b>6</b>	<b>20</b>	<b>6</b>	<b>5</b>	<b>16</b>	<b>5</b>	<b>2</b>

① Convictions. ② Different conviction from prosecutor’s plea. ③ Acquittals.

(\*) When conduct implying various forms of trafficking is prosecuted.

**Sentences handed down to those convicted of trafficking:**

**2017**

Facts prosecuted under the legislation prior to 2010: • 10 months: 1 Spanish man (accomplice) • 1 year and 4 months: 1 Spanish man • 1 year and 5 months: 1 Spanish man • 1 year and 6 months: 1 Russian man; 1 Portuguese man • 2 years: 1 Spanish man; 3 Russian men • 2 years 15 days: 2 Spanish men • 5 years in prison: 1 Belarusian woman; • 6 years and 6 months: 1 Nigerian man.

Facts prosecuted under post-2010 legislation: • 1 year: 1 Nigerian man (cover-up) • 1 year and 9 months 6 Bulgarian men (mitigating circumstance) • 2 years 3 months: 1 Bulgarian man (mitigating circumstance) • 3 years: 1 Ghanaian woman (conspiracy) • 4 years 9 months: 1 Bulgarian man • 5 years in prison: 1 Nigerian man • 5 years 1 month: 2 Nigerian men • 5 years 3 months: 2 Bulgarian men • 6 years: 1 Spanish man; 1 Nigerian man • 6 years and 6 months: 1 Nigerian man • 7 years: 1 Romanian • 7 years and 3 months: 1 Romanian man; 1 Polish man • 7 years and 6 months: 1 Nigerian • 7 years and 8 months: 2 Nigerian men; 1 Sierra Leonean woman • 8 years and 3 months: 1 Romanian man • 10 years in prison: 2 Bulgarian men • 12 years and 6 months: 1 Nigerian man; 1 Venezuelan man • 13 years and 2 days: 1 Romanian man • 13 years 1 month: 1 Nigerian • 13 years 6 months: 1 Nigerian man • 22 years in prison: 1 Romanian man.

## 2018

Facts prosecuted under the legislation prior to 2010: • 2 years: 1 Nigerian man • 4 years and 8 months: 1 Brazilian woman; 1 Spanish man.

Facts prosecuted under the legislation after 2010: • 2 years: 13 Romanian men (mitigating redress); 2 Nigerian men (accomplices) • 2 years and 6 months: 1 Nigerian man (redress for damage) • 4 years: 3 Nigerian men (2 redress) • 4 years and 1 day: 4 Romanian men (avoidable mistake/omission); 1 Nigerian man • 4 years and 3 months: 1 Nigerian (redress) • 5 years: 1 Cameroonian man; 1 Nigerian man; 1 Romanian man • 5 years and 2 months: 1 Paraguayan woman • 6 years: 2 Nigerian men • 6 years and 6 months: 1 Nigerian man • 7 years: 3 Nigerian men; 1 Paraguayan woman • 8 years and 6 months: 2 Nigerian men • 8 years and 7 months: 1 Spanish man • 10 years: 1 Nigerian man • 10 years and 2 days: 4 Nigerian men • 11 years and 2 months: 1 Spanish man • 14 years and 2 months: 1 Nigerian man • 14 years and 6 months: 1 Nigerian man • 22 years and 3 months: 1 Nigerian man • 25 years and 2 months: 4 Nigerian men • 37 years 3 months: 4 Nigerian men.

## 2019

Facts prosecuted under the legislation prior to 2010: • 1 year and 8 months: 1 Brazilian woman; 2 Spanish men; 2 Russian men • 3 years: 1 Spanish man • 8 years and 9 months: 1 Brazilian woman.

Facts prosecuted under post-2010 legislation: • 1 year and 6 months: 4 Nigerian men (accomplices) (delays) • 1 year and 10 months: 1 Colombian woman (mitigating circumstance) • 2 years: 1 Nigerian man (delays); 3 Romanians (avoidable mistake of legal prohibition) • 5 years: 1 Spanish man; 1 Nigerian man • 5 years and 2 months: 1 Nigerian man • 5 years and 3 months: 1 Romanian man • 5 years and 7 months: 1 Nigerian man • 6 years: 1 Nigerian man • 6 years and 6 months: 3 Nigerian men • 6 years and 9 months: 1 Romanian man • 7 years: 1 Nigerian man • 7 years 9 months: 2 Nigerian men • 8 years 10 months: 2 Nigerian men • 9 years 3 months: 1 Nigerian man • 10 years 2 months: 1 Nigerian • 10 years 4 months: 3 Bosnian men • 10 years 5 months: 1 Nigerian man • 11 years 6 months: 3 Nigerian men • 12 years 6 months: 1 Nigerian man • 12 years 6 months 2 days: 1 Romanian man • 16 years and 2 days: 1 Nigerian man • 16 years 4 months and 2 days: 1 Romanian man • 19 years old: 1 Nigerian man • 20 years old: 2 Bulgarian men; 2 Romanian men • 26 years: 1 Bulgarian man • 29 years: 1 Bulgarian man • 31 years: 2 Romanian men • 53 years 7 days: 1 Romanian man • 55 years 7 days: 1 Romanian man.

## 2020

Facts prosecuted under the legislation prior to 2010: • 3 years: 2 Albanian men • 4 years and 8 months: 1 Nigerian man.

Facts prosecuted under post-2010 legislation: • 2 years: 1 Spanish man • 3 years: 1 Moldavian 1 year • 3 years 9 months 1 day: 1 Spanish man (mitigating circumstance) • 5 years: 2 Nigerian men; 1 Romanian man • 5 years 1 day: 3 Nigerian men • 6 years: 4 Nigerian men • 6 years 1 day: 1 Romanian man • 6 years 8 months: 1 Venezuelan man • 8 years: 4 Nigerian men • 8 years 1 day: 1 Nigerian man • 8 years 6 months: 1 Nigerian man • 9 years: 1 Nigerian man • 10 years 6 months: 1 Nigerian man • 10 years 7 months 15 days: 1 Nigerian man • 14 years 1 day: 1 Nigerian man • 14 years 6 months: 1 Nigerian man • 14 years 10 months: 1 Spanish man; 1 Venezuelan man • 15 years 9 months 3 days: 2 Venezuelan men • 16 years 2 months 31 days: 1 Romanian man • 17 years 10 months: 1 Venezuelan man • 18 years 10 months: 1 Venezuelan man • 19 years: 1 Nigerian man • 23 years: 1 Nigerian man • 24 years 2 days: 2 Nigerian men • 28 years 3 days: 1 Nigerian man • 35 years: 1 Nigerian man • 35 years 6 months: 1 Nigerian man.

## Victims of trafficking in human beings recognised in judgment from 2017 to 2020.

In this period, 163 victims were recognised by court judgment:

- ✓ Sexual: 153 (adult women: 144; female minors: 7; adult men: 2)

- ✓ Labour: 1 (adult woman)
- ✓ Begging: 8 (adult men: 3; female minors: 5)
- ✓ Forced marriages: 1 (female minor)
- ✓ Criminal activities: 1 (female minor)

<b>Nationality of the victims recognised in a judgment for the crime of trafficking in human beings for sexual exploitation*</b>												
	2017			2018			2019			2020		
	①	②	③	①	②	③	①	②	③	①	②	③
Belarus	0	1	0	0	0	0	0	0	0	0	0	0
Brazil	0	1	0	0	2	0	0	8	0	0	0	0
Bulgaria	0	0	1	0	0	0	0	2	0	0	0	0
Spain	0	0	0	0	1	0	0	0	0	0	0	0
Moldavia	0	0	0	0	0	0	0	0	0	0	1	0
Nigeria	0	7	0	0	24	0	0	16	0	0	14	5
Paraguay	0	0	0	0	2	0	0	0	0	0	1	0
Romania	0	7	1	0	2	0	0	15	0	0	4	0
Russia	0	33	0	0	0	0	0	1	0	0	0	0
Venezuela	1	1	0	0	0	0	0	0	0	1	7	0
<b>Total</b>	<b>1</b>	<b>50</b>	<b>2</b>	<b>0</b>	<b>31</b>	<b>0</b>	<b>0</b>	<b>42</b>	<b>0</b>	<b>1</b>	<b>26</b>	<b>5</b>

① Men ② Women ③ Minors

(\*) In most of the convictions, a significant number of victims of ultimate crimes of exploitation are also recognised (meaning prostitution and violating workers' rights) or other related crimes (injuries, forced abortion, coercion etc.).

<b>Nationality of the victims recognised in a judgment for the crime of trafficking in human beings for labour exploitation*</b>												
	2017			2018			2019			2020		
	①	②	③	①	②	③	①	②	③	①	②	③
Colombia	0	0	0	0	0	0	0	1	0	0	0	0

① Men ② Women ③ Minors

(\*) In most of the convictions, a significant number of the victims of ultimate crimes of exploitation are also recognised (meaning prostitution and violating workers' rights) or of other related crimes (injuries, forced abortion, coercion etc.).

<b>Victims recognised in a judgment for the crime of trafficking in human beings for begging*</b>												
	2017			2018			2019			2020		
	①	②	③	①	②	③	①	②	③	①	②	③
Bulgaria	2	0	0	0	0	0	0	0	0	0	0	0
Romania	1	0	0	0	0	5	0	0	0	0	0	0
<b>Total</b>	<b>3</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>5</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

① Men ② Women ③ Minors

(\*) In most of the convictions, a significant number of victims of ultimate crimes of exploitation are also recognised (meaning prostitution and violating workers' rights) or of other related crimes (injuries, forced abortion, coercion etc.).

Nationality of the victims recognised in a judgment for the crime of trafficking in human beings for forced marriage*												
	2017			2018			2019			2020		
	①	②	③	①	②	③	①	②	③	①	②	③
Romania	0	0	0	0	0	1	0	0	0	0	0	0

① Men ② Women ③ Minors

(\*) In most of the convictions, a significant number of victims of ultimate crimes of exploitation are also recognised (meaning prostitution and violating workers' rights) or of other related crimes (injuries, forced abortion, coercion etc.).

Nationality of the victims recognised in a judgment for the crime of trafficking in human beings to commit illegal activities*												
	2017			2018			2019			2020		
	①	②	③	①	②	③	①	②	③	①	②	③
Bosnia	0	0	0	0	0	0	0	0	1	0	0	0

① Men ② Women ③ Minors

(\*) In most of the convictions, a significant number of victims of ultimate crimes of exploitation are also recognised (meaning prostitution and violating workers' rights) or of other related crimes (injuries, forced abortion, coercion etc.).

➤ **Number of judgments in THB cases resulting in the confiscation of assets.**

Data not available

➤ **Number of convictions of legal entities for THB.**

According to the data provided by the Office of the Director of the Public Prosecutions Service, there is evidence of a conviction of a legal entity in 2017 for a crime of trafficking in human beings for sexual exploitation.

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**Index of abbreviations**

1. AEAT State Agency for Tax Administration
2. AEB Spanish Banking Association
3. CCPJ General Council of the Judiciary
4. CE Spanish Constitution
5. CECA Spanish Confederation of Savings Banks
6. CEPOL European Union Agency for Law Enforcement Training
7. CGAE General Council of Spanish Lawyers
8. CITCO Counter-Terrorism and Organised Crime Intelligence Centre
9. CP Criminal Code
10. DGRN General Directorate of Notaries and Registries
11. DGVG Government Delegation for Gender Violence
12. EGT Transfer Management Companies
13. EJN European Justice Network
14. EMPACT European Multidisciplinary Platform against Criminal Threats
15. EMUME Team for women and minors
16. EU European Union
17. EUROJUST European Agency for Criminal Justice Cooperation
18. EV Law on the Standing of the Victims of Crime
19. FE Attorney General of the State's Office (Public Prosecution Service)
20. FFCSE Law Enforcement Bodies
21. IberRed Iberian and Latin American Network for International Legal Cooperation
22. ILO International Labour Organization (OIT in Spanish)
23. IRPF Income Tax on Natural Persons
24. ISES Instruction from the Secretary of State for Security
25. ITSS Labour and Social Security Inspectorate
26. JIT Joint Investigation Team (ECI in Spanish)
27. LAJG Law on Free Legal Assistance
28. LEC Law on Civil Procedure
29. LECrim Criminal Procedure Act
30. LO Organic Law (needing an absolute majority in the Lower House for approval).
31. LOEX Organic Law on foreigners' rights and freedoms in Spain and their social integration
32. LOPJ Organic Law on the Judiciary
33. LOT Organic Law on Jury Courts

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34. MEA Unaccompanied foreign minor
  35. MU Mobile Unit
  36. MVI Minimum Vital Income
  37. NGO Non-Governmental Organisation (OGN in Spanish)
  38. NHS National Health System (SNS in Spanish)
  39. OLA Office for the Localisation of Financial Assets
  40. OM International Organization for Migration (OIM in Spanish)
  41. OP Centralised Organisation for the Prevention of Money Laundering
  42. ORGA Office for Asset Recovery and Management
  43. OSCE Organisation for Security and Cooperation in Europe
  44. PENTRA National Strategic Plan against Human Trafficking and Exploitation
  45. RD Royal Decree
  46. RMENA Registry for foreign unaccompanied minors
  47. SACD Section for Analysis of Criminal Behaviour
  48. SAP Provincial Court Judgment
  49. SEPBLAC Financial Intelligence Unit (Executive Service of the Commission for the Prevention of Money Laundering and Monetary Offences)
  50. SES Secretary of State for Security
  51. SSTC Constitutional Court Judgments (plural)
  52. STC Constitutional Court Judgment (singular)
  53. STS Supreme Court Judgment
  54. TF (SEPBLAC) Centralised Banking Account Register
  55. TGSS Social Security General Treasury
  56. THB Trafficking in Human Beings
  57. UCO Central Operative Unit
  58. UCRIF Central Unit for Illegal Immigration Networks and Forgeries
  59. UN United Nations Organisation (ONU in Spanish)
  60. UNACC National Union of Credit Cooperatives
  61. UTPJ Guardia Civil-Criminal Division-Crime Analysis Unit

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**Bodies that have taken part in completing the Questionnaire for the Third Round of Evaluation of Spain for GRETA**

1. General Council of Spanish Lawyers.
2. General Council of the Judiciary Equality Committee.
3. Attorney General of the State's Office (Public Prosecution Service). Immigration Unit.
4. Ministry of Social Rights and 2030 Agenda. General Directorate for the Rights of Children and Adolescents.
5. Ministry for Equality. Government Delegation against Gender Violence.
6. Ministry of Inclusion, Social Security and Migrations. Secretary of State for Migrations.
7. Ministry of Justice. Office for Asset Recovery and Management.
8. Ministry of Justice. Secretary of State for Justice. General Directorate for International Legal Cooperation and Human Rights. Subdirector General of Legal Affairs in the European Union, International Bodies and Human Rights.
9. Ministry of Labour and Social Economy. Labour and Social Security Inspectorate State Body.
10. Ministry of the Interior. Secretary of State for Security. Counter-Terrorism and Organised Crime Intelligence Centre.
11. Ministry of the Interior. Secretary of State for Security. Directorate General of Police. General Commissariat for Immigration and Borders.
12. Ministry of the Interior. Secretary of State for Security. General Directorate of Guardia Civil. Judicial Police Central Unit.
13. Ministry of the Interior. Secretary of State for Security. National Rapporteur on Trafficking in Human Beings.
14. Ministry of the Interior. Subsecretary of the Interior. General Directorate for Interior Policy.