

THIRD-COUNTRY NATIONAL VICTIMS OF TRAFFICKING IN HUMAN BEINGS: DETECTION, IDENTIFICATION AND PROTECTION. NATIONAL REPORT-SPAIN.



Study 2021

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EMN study on Third Country National Victims of Trafficking in Human Beings: Detection, Identification and Protection.

National Report: Spain

1 BACKGROUND AND RATIONALE FOR THE STUDY

Trafficking in human beings is a crime against people that can take various forms such as sexual exploitation (including forced prostitution), forced labour or services, slavery and servitude related practices, as well as the removal of vital organs, all of which constitute a grave violation of victim's fundamental rights. Trafficking in human beings is prohibited in various international instruments such as in the Charter on Fundamental Rights of the European Union (EU),¹ the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Children and Women, supplementing the UN Convention against Transnational Organized Crime (Annex II),² the Council of Europe (CoE) Conventions on Action against Trafficking in Human Beings³ (which is monitored by GRETA, the CoE Group of Experts on Action against Trafficking in Human Beings) and on Preventing and Combating Violence Against Women and Domestic Violence (Istanbul Convention),⁴ the UN Convention on the Elimination of All Forms of Discrimination against Women (CEDAW),⁵ Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, the International Covenant on Civil and Political Rights (ICCPR),⁶ the Global Compacts for Migration⁷ and Refugees⁸ and the 2030 Agenda for Sustainable Development.⁹

According to the latest available data, between 2017 and 2018, there were more than 14 000 registered victims within the EU.¹⁰ Trends in the EU seem to mirror those at global level: for every 10 victims detected,



five are adult women and two are girls, one in every three is a child.^{11 12 13} Trafficking in human beings is not only recognised as a highly profitable crime,¹⁴ it is also recognized as a crime with links to social development and security, migration, conflict- and climate-induced displacement. The impact and cost of human trafficking on individuals as well as on political, economic and social systems is compelling. Trafficking victims may suffer from an array of physical and devastating psychological health issues stemming from brutal physical and emotional attacks at the hands of their traffickers, dangerous workplace conditions, occupational hazards, inhumane living conditions, poor sanitation, inadequate nutrition, poor personal hygiene, and general lack of quality health care. Human trafficking has the power to affect the victims' life forever:¹⁵ therefore, the application of a human right-based and victim-centred approach is needed.

Persistent demand for sexual services and for low-wage workers employed in manual jobs continue to ensure opportunities for traffickers to operate: in spite of the recent significant increase in the number of people convicted, many perpetrators remain undetected and unpunished.¹⁶ Given its clandestine nature, and the many factors which may deter a victim from reporting the crime, trafficking in human beings is believed to be significantly underreported.¹⁷ Detection and identification of (potential) victims of trafficking in human beings is therefore likely to remain at the same time critical and problematic, as flagged by a recent report of the European Parliament.¹⁸

Third-country nationals account for more than half of the registered victims in EU Member States.¹⁹ Vulnerable migrants have been reported to be at persistent risk of becoming victims of trafficking along migration routes: in particular unaccompanied minors and those in the asylum procedures, might be at a higher risk of becoming victims of trafficking in human beings and other gender-based violence, such as rape or domestic violence.²⁰ Reception centres for asylum applicants can be targeted by human traffickers for recruitment.²¹ Early identification of victims is crucial to promptly assist, support and protect victims of trafficking in human beings and enables police and prosecution authorities to better investigate and punish traffickers.²² However, their detection and identification in mixed migration flows remains a challenge²³ in a number of Member States,²⁴ some of which also relate to tensions with the current legal framework (especially within asylum procedures)²⁵ as well as to disruption in victim assistance and support services.²⁶ For instance, difficulties have occurred in some Member States, e.g. labour exploitation cases not recognised as trafficking in human beings and treated by the police under civil law (Latvia), difficult in detection and identification of victims due to more restricted movements during the Covid-19 pandemic crisis (Luxembourg), 'cross-border' victims or third-country nationals 'forced' to commit criminal acts themselves (the Netherlands) or collaboration with governmental agencies (Sweden).

The full extent of the impact of the COVID-19 pandemic on trafficking in human beings is not yet known. However, a rise in poverty as a result of restrictions, an increase in vulnerabilities linked to migration statuses and ongoing travel restrictions may have, among other factors, resulted in higher levels of trafficking and placed third-country national migrants at greater risk of exploitation.²⁷ The risks of exploitation of minors in

particular are thought to have increased.²⁸ The pandemic has also made the identification of victims of trafficking more challenging for authorities and has resulted in delays in identification procedures.²⁹

In 2012, the EU called upon Member States to set up “systematic approach(es) to victim identification, protection and assistance” including promoting “regular training for officials likely to come into contact with victims or potential victims of trafficking in human beings [...] aimed at enabling them to identify and deal with victims and potential victims of trafficking in human beings”.³⁰ One of the key priorities of the EU Strategy on Combatting Trafficking in Human Beings 2021-2025 is protecting, supporting and empowering victims, which also includes the early identification of victims: in this regard, working together with relevant EU agencies, as well as embedding cooperation and partnerships against trafficking with non-EU countries of origin and transit and organisations at regional and international levels in the EU’s external relations policy is fundamental.³¹

2 EU LEGAL AND POLICY CONTEXT

This section outlines EU legislation relevant to the identification and protection of victims of trafficking. It begins by describing the anti-trafficking legislation and its main recent developments, followed by relevant elements of the Common European Asylum System (CEAS). Whilst the Anti-trafficking Directive 2011/36/EU introduces the concepts of detection and identification of victims in all situations, existing instruments for international protection and forced return procedures do not explicitly provide for a tailored mechanism.³²
³³ The recast asylum acquis goes some way in improving this situation as described below, although there may be room to further enhance provisions for victims of trafficking in human beings who are in Dublin or forced return procedures.

2.1 EU Anti-trafficking legislation

The EU recognises trafficking in human beings as a violation of human rights: Article 5(3) of the EU Charter on Fundamental Rights prohibits trafficking in human beings outright. The EU’s competence to act in relation to trafficking in human beings is set out in the EU Treaties, and in several legal documents. The Treaty on the Functioning of the EU (TFEU) recognises the EU’s power to act on trafficking in relation to its nature as (i) a phenomenon with links to migration,³⁴ and (ii) a cross-border crime.³⁵

Several Directives within the migration acquis either focus on, or have implications for, third-country national victims of trafficking in human beings, but the Anti-trafficking Directive 2011/36/EU is the first act at the EU level to address trafficking in human beings in a comprehensive and integrated way. The instrument adopts a victim-centred ‘human rights approach’, providing for a common definition of the criminal offence of trafficking, and obliging Member States to “establish appropriate mechanisms aimed at the early identification of and assistance to victims, in cooperation with relevant support organisations”.³⁶ In 2020 the European Commission published its third two-yearly report on the progress made in the fight against trafficking in human beings as required under Article 20 of the Anti-trafficking Directive 2011/36/EU.³⁷

Prior to the entry into force of the Anti-trafficking Directive 2011/36/EU, the Residence Permit Directive 2004/81/EC was the only piece of EU legislation providing for assistance to third-country national victims of trafficking.³⁸ It sets out a framework for Member States to grant a temporary reflection period of unconditional stay and assistance and conditions for granting a residence permit to third-country national victims of trafficking in human beings, when these persons cooperate with the authorities competent to start

pre-trial investigations and convict the perpetrator. Some Member States³⁹ make provision for certain forms of residence permit, based on the vulnerable position of the victim. This possibility is sometimes limited to particular categories of persons (e.g. minors).⁴⁰

According to the Anti-trafficking Directive 2011/36/EU, "a person should be provided with assistance as soon as there is a reasonable-grounds indication for believing that he or she might have been trafficked and irrespective of his or her willingness to act as a witness".⁴¹ The Anti-trafficking Directive 2011/36/EU goes on to state that in cases where the victim does not already reside lawfully in the Member State the assistance should be provided unconditionally for at least the duration of the reflection period. However, it can be withdrawn if on completion of the identification process or expiry of the reflection period, the victim is not considered eligible to remain in the Member State.⁴² The Anti-trafficking Directive 2011/36/EU, however, recognises that in addition to residence based on cooperation, victims of trafficking may also be eligible for international protection.⁴³

It is also of note that potential victims of trafficking who have been issued a reflection period cannot be subject to any expulsion order against them for the duration of this period,⁴⁴ and that victims of trafficking who have been granted a residence permit will not be subject to an entry ban, provided that there is no threat to public policy, public security or national security within the scope of the Return Directive 2008/115/EC.⁴⁵

Finally, in its *Rantsev v. Cyprus and Russia* ruling,⁴⁶ the European Court of Human Rights (ECtHR) recalled the positive obligations that fall to States when it comes to inquiring into possible trafficking situations and to taking the necessary measures to protect victims. Going further than a simple obligation for states to enact laws aimed at ensuring the prohibition of slavery, servitude and forced labour as provided for in Article 4 of the European Convention on Human Rights (ECHR), the Court, set forth the obligation for states to take appropriate measures to 'remove an individual from a situation or risk, where it is presumed that state authorities were aware that this individual was at real and immediate risk of being trafficked or exploited'. Very recently, the Court reiterated that these positive obligations are incumbent upon states and stressed the need for the latter to 'protect victims and investigate as soon as there are reasonable grounds to believe that there is credible suspicion of trafficking'.⁴⁷

2.2 Main EU policy developments addressing trafficking in human beings

While the main responsibility for tackling trafficking in human beings and protecting victims lies with Member States, in 2012 the European Commission launched the first EU Strategy towards the Eradication of Trafficking in Human Beings 2012-2016 (EU Strategy).⁴⁸ It calls on Member States to adopt a systematic approach to victim identification, protection and assistance, including through the establishment of formal, functional national referral mechanisms (NRMs). In its mid-term report on the implementation of the EU Strategy,⁴⁹ for the first time, the European Commission collected statistical data on the trafficking of human beings at a European level. In 2020, a fifth edition was published together with the third report on the progress made in the fight against trafficking in human beings mentioned above.

On 14 April 2021, the European Commission adopted the new EU Strategy on Combatting Trafficking in Human Beings 2021-2025,⁵⁰ calling for a comprehensive response to combatting a complex criminal phenomenon as follows:

- Reducing demand that fosters trafficking, including by assessing the possibility of establishing minimum EU rules criminalising the use of exploited services from victims of trafficking and proposing legislation on corporate governance to clarify the responsibilities of companies.
- Breaking the business model of traffickers, online and offline including by conducting a dialogue with internet and technology companies and encouraging systematic training of law enforcement and judicial practitioners on detecting and addressing trafficking in human beings.
- Protecting, supporting and empowering the victims with a specific focus on women and children including by seeking to improve the early identification of victims and their referral to further assistance and protection. Strengthen victim empowerment programmes and facilitate re-integration. The European Commission will also fund gender-specific and child-sensitive training to help police, social workers, border guards or healthcare staff to detect victims.
- Promoting international cooperation with international partners including by means of foreign policy instruments and operational cooperation to help combat trafficking in countries of origin and transit including through dedicated human rights and security dialogues.

Tackling trafficking in human beings and the early identification of potential non-EU victims (who account for more than half of the total number) is also a priority under several of the latest Communications adopted by the European Commission. These include the new EU Security Union Strategy⁵¹ launched in July 2020, and the New Pact on Migration and Asylum⁵² of September 2020. It also plays a prominent role in the Europol Serious and Organised Crime Threat Assessment and the EU Strategy to tackle Organised Crime 2021-2025, presented respectively on 13 and 14 April 2021.⁵³

The European Commission recently published three studies - one on the gender dimension of trafficking,⁵⁴ one on its economic, social and human costs⁵⁵ and one on reviewing the functioning of Member State's National and Transnational Referral Mechanisms⁵⁶ - focused on (different aspects of) the topic, with the latter one in particular treating victim detection and identification in the context of migration and asylum. Finally, the outcomes of this study will complement the Commission's evaluation of the Anti-trafficking Directive 2011/36/EU, which is a key action of the New EU Strategy.

2.3 EU asylum acquis

The EU asylum acquis comprises two Regulations and four Directives, which legislate on different aspects of the procedure for granting international protection, including which country is responsible for examining each application (Dublin III Regulation),⁵⁷ and how to compare fingerprints for law enforcement purposes (Eurodac Regulation),⁵⁸ the type of persons who qualify for international protection and the rights related to the international protection status (Qualification Directive 2011/95/EU),⁵⁹ the common standards that Member States should have in place for granting and withdrawing international protection (Asylum Procedures Directive 2013/32/EU),⁶⁰ and the common standards for the reception of applicants that should be granted to guarantee them a dignified standard of living (Reception Conditions Directive 2013/33/EU).⁶¹ In the EU asylum acquis, victims of human trafficking are considered a vulnerable category of applicants under the Reception Conditions Directive 2013/33/EU which lays down specific provisions for vulnerable applicants and their special reception needs, including the assessment of such needs.⁶² The applications of

vulnerable persons can be prioritised under the Asylum Procedures Directive 2013/32/EU.⁶³ Finally, the new EU Pact on Migration and Asylum⁶⁴ proposes to put in place a pre-entry screening that should be applicable to all third-country nationals who are present at the external border without fulfilling the entry conditions or after disembarkation, following a search and rescue operation.⁶⁵

In this study, the Dublin III Regulation is of relevance as it establishes the criteria and mechanisms for determining the Member State responsible for the examination of an asylum claim in the EU. Where a Member State other than the one in which the applicant has lodged an application is found to be responsible for examining the application, the applicant will usually be transferred to that Member State. Where the applicant has lodged multiple applications in different Member States, the person will usually be transferred back to the Member State previously determined as responsible. In cases where a victim has been exploited in the Member State responsible, it could be traumatic to be returned to that Member State, even though in accordance with the Dublin Regulation, the transfer can take place. However, questions have arisen in relation to the reflection period that should be granted under art 6(2) of the Residence Permit Directive 2004/81/EC.⁶⁶ According to this provision, any expulsion order against a victim of trafficking shall not be enforced during this reflection period, which is an occasion for them to recover and decide whether they want to cooperate with the competent authorities, by, for example, reporting their trafficking situation. The Court of The Hague has referred several questions for a preliminary ruling, including whether a transfer decision pursuant to the Dublin Regulation during the reflection period qualifies as an expulsion order and thus whether such transfer is precluded by the Residence Permit Directive 2004/81/EC.⁶⁷

Where the applicant is an unaccompanied minor without family members on the territory of other Member States, the State where the unaccompanied minor has lodged an application for international protection shall be responsible.⁶⁸ Moreover, so-called 'Dublin' transfers do not always take place for instance where a Member State decides to take responsibility for an application for international protection lodged by a third-country national or a stateless person itself, for example:

- on the basis of a national decision (the so-called 'sovereignty clause');⁶⁹
- on humanitarian grounds based in particular on family or cultural considerations (the so-called 'humanitarian clause').⁷⁰

Concerns arise when it comes to asylum applicants who may become victims of trafficking during so-called 'secondary movements' or may be returned under the Dublin III Regulation to the country where exploitation has occurred. In 2011, in *N.S. and M.E.* (Joined cases C-411/10 and C-493/10),⁷¹ the Court of Justice of the EU (CJEU), held that, in line with Article 4 of the EU Charter of Fundamental Rights, Member States may not transfer an asylum applicant to the responsible Member State where they cannot be unaware that systemic deficiencies in the asylum procedure and in the reception conditions in that Member State amount to substantial grounds for believing that the asylum applicant would face a real risk of being subjected to inhuman or degrading treatment. The determining Member State shall continue to examine the criteria set out in the hierarchy of criteria in order to establish whether another Member State can be designated as responsible. This principle applies to all applicants whether or not they claim to be victims of trafficking.⁷² Nonetheless, decisions not to transfer remain dependent on effective detection methods, identification processes and a procedure in place for the transfer to be delayed or a final decision made whether or not to proceed with it.

Detection and identification of potential victims is key, and national courts have stressed the importance of these steps on several occasions, pointing to the tension that may arise from the time-efficiency spirit of the Dublin Regulation on the one hand, and the protection duties imposed on Member States on the other.⁷³

When the Dublin III Regulation was adopted in 2013 it also improved possibilities for detection, since it introduced a provision to conduct a personal interview ‘in order to facilitate the process of determining the Member State responsible’.⁷⁴ The Dublin III Regulation introduced provisions on the consideration of safety and security of unaccompanied minors in particular where there is a risk of the child being a victim of trafficking,⁷⁵ but does not explicitly introduce provisions relevant to adults who are (potential) victims of trafficking in human beings within Dublin procedures: the Reception Conditions Directive 2013/33/EU states that Member States shall take into account the specific situation of vulnerable persons such as (among others) victims of human trafficking.⁷⁶

2.4 The victims’ rights directive

Adopted in 2012, the Victims’ Rights Directive 2012/29/EU establishes minimum standards on the rights, support and protection of victims of crime and ensures that persons who have fallen victim to crime are recognised and treated with respect.⁷⁷ Trafficking in human beings is recognised as one of the crimes covered by the Victims’ Right Directive 2012/29/EU.⁷⁸ Victims of crime must receive proper protection, support and access to justice: in particular, the need for special support and protection for women (and their children) who are victims of gender-based violence, especially with a view to avoiding secondary and repeated victimisation, is emphasised.⁷⁹ In the context of the individual needs’ assessment, particular attention shall be paid to victims of trafficking.⁸⁰

On that basis, all EU Member States,⁸¹ must ensure and prioritise victims’ protection and safety regardless of their residence status. Indeed, while Article 1 of the Victims’ Right Directive 2012/29/EU calls for a non-discriminatory approach to the protection of victims of crime, Article 2 further defines victims as “ anyone who has suffered physical, mental, emotional or economic harm caused by a criminal offence, as well as family members of someone whose death case caused by a criminal act”. Read in conjunction with Recital 10 which highlights that “Member States must take necessary measures to ensure that the rights set out in this Directive are not made conditional on the victim’s residence status”, the definition of ‘victims’ provided de facto encompasses third-country nationals who may fall victims to crime within the EU territory, including the one of trafficking in human beings. The Victims’ Right Directive 2012/29/EU provides victims and their family members with a right to information, support and protection. It further strengthens the victims’ procedural rights in criminal proceedings and requires that EU Member States ensure appropriate training on victims’ needs for officials who are likely to come into contact with victims. For certain groups of victims, the EU has adopted specific rules which respond more directly to the specific needs of some victims as, *inter alia*, to provide protection and support for victims of human trafficking.⁸²

3 STUDY AIMS AND OBJECTIVES

The proposed study aims to explore the national practices of detection, identification and protection of third-country national victims of trafficking in human beings. In this respect, without adopting the same scope, it updates the 2013 EMN study “Identification of victims of trafficking in human beings in international protection and forced return procedures” and covers:

1. Overview of national situations in relation to trafficking in human beings, in particular focusing on the national, latest available data, trends, patterns and trafficking purposes (Introduction).
2. National policy and legislative developments and measures to detect (presumed) third-country national victims of trafficking in human beings, including information on competent authorities, existing reporting mechanisms, possibilities to appeal decisions. (Section 1).
3. National policy and legislative developments and measures to identify (presumed) third-country national victims of trafficking in human beings, including referral mechanisms (if existent) among national authorities and other relevant stakeholders (Section 2)
4. National policy and legislative developments and measures to protect (presumed) third-country national victims of trafficking in human beings, including the legal framework for granting the reflection period, residence permits and the provision of appropriate information and assistance (Section 3).
5. Cooperation mechanisms with other Member States, EU agencies (EASO, Europol, Frontex), international organisations and third countries of origin and of transit (Section 4).
6. Challenges and good practices in Member States, such as those concerning vulnerable persons, (presumed) cases falling under the scope of the Dublin III Regulation and the impact of COVID-19 (Section 5).

4 SCOPE OF THE STUDY

The study covers the following categories of third-country nationals, detected, identified and protected as (presumed) victims of trafficking in human beings, who are:

- Asylum applicants;
- In an irregular situation;
- In possession of a valid authorisation to stay on the territory of a Member State (residence permit or short-term visa).

Third-country nationals who are in an irregular situation and subject to a return decision will be out of the scope of this study as they have already been dealt with in other recent EMN products.

The temporal scope for statistics and the national contexts is from January 2015 up to December 2020 for statistics and the national contexts.

The study is aimed at policy makers at national, European and international level, but also representatives of specific industries (e.g. private sectors in areas where trafficking in human beings is documented to occur), civil society organisations, academia, and will complement and update findings of other relevant European Commission reports and studies as well as contribute to the European Commission’s study for the evaluation of the Anti-trafficking Directive.

For the purpose of this study, the definitions listed in the section below will apply.

5 DEFINITIONS

The study uses the following definitions, which – unless otherwise stated – are based on the EMN Asylum and Migration Glossary.⁸³

Detection of (a situation of) trafficking in human beings	The process of identifying a possible situation of trafficking in human beings.
Dublin procedure	The process of determining the EU Member State responsible for examining an application for international protection lodged in one of the EU

Detection of (a situation of) trafficking in human beings	The process of identifying a possible situation of trafficking in human beings.
	Member States by a third-country national under Regulation (EU) No 604/2013 (Dublin III Regulation).
Dublin transfer	<ol style="list-style-type: none"> 1. The transfer of responsibility for the examination of the merits of an application for international protection from one Member State to another Member State. 2. The (physical) transfer of an applicant to the EU Member State who is considered to be responsible for examining the merits of an application following a Dublin procedure
Identification of a victim of trafficking in human beings	The process of confirming and characterising a situation of trafficking in human beings for further implementation of support.
Identified victim of trafficking in human beings	A person who has been formally identified as a victim of trafficking in human beings according to the relevant formal authority in Member States.
International protection	<p>In the global context, the actions by the international community on the basis of international law, aimed at protecting the fundamental rights of a specific category of persons outside their countries of origin, who lack the national protection of their own countries.</p> <p>In the EU context, protection that encompasses refugee status and subsidiary protection status.</p>
National referral/cooperation mechanisms	Mechanism aimed at identifying, protecting and assisting victims of trafficking in human beings, through referral, and involving relevant public authorities and civil society. ⁸⁴
Potential victim of trafficking in human beings	A person vulnerable to trafficking in human beings. ⁸⁵
Presumed victim of trafficking in human beings	A person who has met the criteria of EU regulations and international Conventions but has not been formally identified by the relevant authorities (e.g. police) as a trafficking victim or has declined to be formally or legally identified as victim of trafficking.

⁸⁴ Article 11(4) of the Anti-trafficking Directive lays down an obligation on Member States to take the necessary measures to establish appropriate mechanisms aimed at the early identification of, assistance to and support for victims, in cooperation with relevant support organisations.

⁸⁵ Definition inspired by IOM, <https://publications.iom.int/books/migrants-and-their-vulnerability-human-trafficking-modern-slavery-and-forced-labour>, last accessed on 10 June 2021.

Detection of (a situation of) trafficking in human beings	The process of identifying a possible situation of trafficking in human beings.
Protection of (<i>presumed/identified</i>) victims of trafficking in human beings	The action of national authorities aimed at protecting the fundamental rights of (presumed) victims of trafficking in human beings. ⁸⁶
Reception centre	A location with facilities for receiving, processing and attending to the immediate needs of refugees or asylum applicants as they arrive in a country of asylum.
Reflection period	A period of time determined according to national law granted to third-country nationals officially identified as victims of trafficking in human beings allowing the victim to recover and escape the influence of the perpetrators of the offences so that they can take an informed decision as to whether (or not) to cooperate with the competent authorities.
Registered victim of trafficking in human beings	A person who is either an identified or a presumed victim of human trafficking and has been registered by authorities and/or other agencies and organisations. ⁸⁷
Trafficking in human beings	The recruitment, transportation, transfer, harbouring or reception of persons, including the exchange or transfer of control over those persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation.
Transfer of procedure	The process of changing from one migration procedure to another. ⁸⁸
Victim(s) of crime	Anyone who has suffered physical, mental, emotional or economic harm caused by a criminal offence, as well as family members of someone whose death case caused by a criminal act'. ⁸⁹
Voluntary Return	The assisted or independent return to the country of origin, transit or third country, based on the free will of the returnee.

⁸⁶ Definition inspired by the Anti-trafficking Directive, Article 11. A person shall be provided with assistance and support as soon as the competent authorities have a reasonable-grounds indication for believing that the person might have been subjected to trafficking in human beings.

⁸⁷ Definition inspired by the European Commission, Data collection on trafficking in human beings in the EU, 2020, https://ec.europa.eu/anti-trafficking/sites/default/files/study_on_data_collection_on_trafficking_in_human_beings_in_the_eu.pdf, last accessed on 8 May 2021.

⁸⁸ Definition elaborated by the Core AG for the purpose of this study.

⁸⁹ Victims' Rights Directive, Article 2.

Detection of (a situation of) trafficking in human beings	The process of identifying a possible situation of trafficking in human beings.
Vulnerable person	Minors, unaccompanied minors, disabled people, elderly people, pregnant women, single parents with minor children, victims of trafficking in human beings, persons with serious illnesses, persons with mental disorders and persons who have been subjected to torture, rape or other serious forms of psychological, physical or sexual violence, such as victims of female genital mutilation.

6 RELEVANT SOURCES AND LITERATURE

EMN Studies

- EMN (2014), [Study on the identification of victims of trafficking in human beings in international protection and forced return procedures.](#)

EMN Ad-Hoc Queries (AHQ)

- EMN (2019), [AHQ on Access of victims of trafficking to their rights](#)
- EMN (2018), [AHQ on Identification of victims of human trafficking during asylum interview](#)
- EMN (2016), [AHQ on Protection of victims of human trafficking](#)
- EMN (2012), [AHQ on Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims](#)
- EMN (2009), [AHQ on Types of residence permits that victims of trafficking who do not cooperate with the authorities are granted](#)

Other Studies, Reports and Communications

- European Commission (2021), [Communication on the EU Strategy on Combatting Trafficking in Human Beings 2021-2025](#)
- European Commission (2021), [Communication on the EU Strategy to tackle Organised Crime 2021-2025](#)
- EUROPOL (2021), [European Union serious and organised crime threat assessment \(SOCTA\)](#)
- Council of Europe (2020), GRETA's activities, [General reports and resources](#)
- Council of Europe (2020), [Guidance Note on the entitlement of victims of trafficking, and persons at risk of being trafficked, to international protection](#)
- European Commission (2020), [Communication on the EU Security Union Strategy,](#)
- European Commission (2020), [Communication on a New Pact on Migration and Asylum,](#)
- European Commission (2020), [Third report on the progress made in the fight against trafficking in human beings](#)
- European Commission (2020), [Data collection on trafficking in human beings in the EU](#)
- European Commission (2020), [Study on the economic, social and human cost of human trafficking](#)
- European Commission (2020), [Study on reviewing the functioning of Member States' National and Transnational Referral Mechanisms](#)
- European Parliament (2020), [Report on the implementation of Directive 2011/36/EU on preventing and combating trafficking in human beings and protecting its victims](#)
- UNODC (2020), [Global Report on Trafficking in Persons](#)
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- Council of Europe (2020), [Assistance to victims of human trafficking](#)
- European Commission (2016), [Study on the gender dimension of trafficking in human beings](#)
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- European Commission (2012), [EU Strategy towards the eradication of trafficking in human beings 2012-2016](#)
- OHCHR (2010), [Recommended Principles and Guidelines on Human Rights and Human Trafficking](#)

Case law

- European Court of Human Rights, V.C.L and A.N. v. The United Kingdom, Applications Nos. 77587/12 and 74603/12), 16 February 2021: <http://hudoc.echr.coe.int/fre?i=001-207927>
- Court of Justice of the European Union (Grand Chamber) of 21 December 2011. N. S. (C-411/10) v Secretary of State for the Home Department and M. E. and Others (C-493/10) v Refugee Applications Commissioner and Minister for Justice, Equality and Law Reform. References for a preliminary ruling: Court of Appeal (England & Wales) (Civil Division) - United Kingdom and High Court of Ireland - Ireland.
- European Court of Human Rights, Rantsev v. Cyprus and Russia, Application No.25965/04, 10 May 2010: <https://rm.coe.int/16806ebd5e>

7 AVAILABLE STATISTICS

This study builds on the study on data collection on trafficking in human beings in the EU which provides for an in-depth analysis of criminal justice statistical data for years 2017 and 2018.⁹⁰

Information is checked against the EMN Annual Report on Migration and Asylum 2020 (ARM): to facilitate data collection, the EMN Service Provider provides the relevant datasheets on trafficking for each Member State, prepared since 2016, as part of the Statistical Report of the EMN Annual Report on Migration and Asylum.

8 METHODOLOGICAL CONSIDERATIONS

As with all EMN Studies, the National Reports should be primarily based on secondary sources. These may be supplemented by expert interviews. For example, experts working in the field (e.g. national authorities, service provider, civil society organisations, and international organisations) could be consulted to identify key challenges and good practices in the Member States in the detection, identification and protection of (presumed) third-country national victims of trafficking in human beings.

Detection, identification and protection of third-country national victims of trafficking in human beings

National contribution from Spain

Disclaimer: The following information has been provided primarily for the purpose of contributing to a synthesis report for this EMN study. The EMN NCP has provided information that is, to the best of its knowledge, up-to-date, objective and reliable within the context and confines of this study. The information may thus not provide a complete description and may not represent the entirety of the official policy of the EMN NCPs' Member State.

Introduction

National situation with regard to detection, identification, and protection of (presumed) third-country national victims of trafficking in human beings (2015-2020)

Among the main events and political debates that have taken place in the 2015-2020 reference period for this matter, we find:

Within the scope of the General Directorate of International Protection Programmes (DGPPIAH) of the Secretary of State for Migration (SEM), the following have been prepared:

- DGPPIAH Protocol for the Detection and Action in Possible Cases of Trafficking in Human Beings for Sexual Exploitation (without prejudice to its similar application to any purpose of trafficking in human beings) of January 2015. The purpose of this programme is the early detection of and action against possible cases of human trafficking, as well as to homogenize the actions that take place within the Network of Migration Centres of the Ministry of Inclusion, Social Security and Migration and any of the programmes and mechanisms for the care of the immigrant population and applicants or beneficiaries of international protection managed by NGOs and totally or partially financed by the Secretary of State for Migration.
- Referral Procedure for Potential Victims of Human Trafficking, Applicants for International Protection-Madrid-Barajas Airports, October 2019. Aimed at establishing guidelines for action when foreigners of legal age arrive, who request international protection, when it is suspected that they may be in a situation of human trafficking, for their correct referral within the framework of the International Protection Reception System coordinated by the General Sub-Directorate of DGPPIAH programmes.

Regular meetings were held between DGPPIAH staff, specialised entities in the area of trafficking, UNHCR and the Asylum and Refuge Office (ARO) of the Ministry of the Interior for the preparation of this protocol and procedure.

The National Strategy for the Eradication of Violence against Women (2013- 2016), approved by the Council of Ministers on 26 July 2013 under the provisions of Article 3 of OL 1/2004, of 28 December, on Comprehensive Protection Measures against Gender Violence, includes the commitment of the public authorities to put an end to violence against women for the mere fact of being women and for the first time incorporates measures aimed at making progress in the eradication of all forms of violence against women, with special emphasis on the trafficking of women for the purpose of sexual exploitation, a form of violence that is even more cruel and unacceptable if that is possible. The Strategy's actions are based on the policies of equality between men and women and the fight against discrimination, as the only possible ways to contribute to the change of the cultural model that will allow the disappearance of any form of violence against women and favour their full enjoyment of the fundamental rights recognised in the Spanish Constitution

Comprehensive Plan to Combat Trafficking in Women and Girls for Sexual Exploitation 2015-2018.

Rules for the creation of specialised bodies and instructions such as Instruction 6/2016: Instruction 6/2016, of the Secretary of State for Security on actions of the State Security Forces in the fight against human trafficking and in collaboration with organisations and entities with accredited experience in assisting victims.

The National Action Plan against Forced Labour: compulsory labour and other forced human activities. Approved in December 2021

These plans, strategies, protocols have been created, analysed and discussed mainly in 2 forums of national relevance: the Social Forum against trafficking for sexual exploitation managed by the Government Delegation against Gender Violence and the periodic meetings of the National Rapporteur against trafficking managed by CITCO of the Ministry of the Interior.

Within the framework of the trafficking protocol of the DGPIIAH of the Secretary of State for Migration, we provide the following statistical data on presumed victims detected and attended to during the aforementioned period.

1st Semester of 2016:

THB	Female	Male	No data	Total
Sexual Exploitation Purposes	163	7	3	173
Labour Exploitation Purposes	4	6		10
Other Purposes	2			2
Total 1st semester	169	13	3	185

THB DEALT WITH IN 2016		Female	Male	No data	Total
Total data	Sexual Exploitation Purposes	451	31	25	507
	Labour Exploitation Purposes	13	10	1	24
	Other Purposes	110		1	111
Total		574	41	27	642

NATIONALITY	Female	Male	No data	Total
Albania	1			1
Angola	1	4		5
Bangladesh		2		2
Belarus	2			2
Bolivia	1			1
Brazil	5	2		7
Bulgaria	2			2
Cameroon	21	2	1	24
Central African Republic	12			12
China	6			6
Colombia	4			4
Congo	13			13
Congo, The Democratic Republic	37		3	40

Ivory Coast	20	1	2	23
Dominican Republic	1			1
Eritrea	1			1
Spain	1			1
Ethiopia	1			1
Gambia	10			10
Ghana	5		1	6
Equatorial Guinea	2			2
Hungary	1			1
Kenya	2			2
Lithuania	1			1
Malawi	2			2
Morocco	13	2		15
Moldova	1			1
Nicaragua	1			1
Nigeria	163	16	16	195
Pakistan		3		3
Paraguay	7			7
Peru	3	1		4
Romania	39	2	2	43
Russia	5			5
Serbia	1			1
Sierra Leone	5			5
Syria	1	1		2
Sri Lanka	1			1
Sudan	5	1		6
Ukraine	1			1
Uganda	3			3
Zimbabwe	2			2
Guinea Conakry	158	1		159
Mali	1			1
Senegal	1			1
Guinea-Bissau	2			2
Venezuela	1	3		4
Guatemala	1			1
Spain	2			2
Liberia	2			2
Comoros	1			1
No data	3		2	5

The principle of non-refoulement for victims of trafficking in human beings

In line with European legislation, Spain seeks to guarantee the principle of non-refoulement of persons who may have been victims of trafficking or may be at risk of being trafficked, as well as their access to mechanisms for applying for international protection. This principle of non-refoulement shall be applied from the outset, as soon as slight indications of being a possible victim of trafficking are detected.

In relation to asylum, the recognition of signs of trafficking motivates admission to international protection system and the application of non refoulement principle.

Typology(ies) of reflection periods, residence permit(s), protection status(es) and national programme(s) are available to protect (presumed) third-country national victims of trafficking,

a) organisations / authorities competent to trigger the request for a (presumed) victim to remain on the

Total	574	41	27	642
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1st Semester of 2017:

THB dealt with in 2017	Purpose	Female	Male	No data	Total
1st Semester of 2017	Sexual Exploitation Purposes	442	11	2	455
	Labour Exploitation Purposes		6		6
	Other Purposes	1	2		3
Total 1st semester		443	19	2	464
NATIONALITY		Female	Male	No data	Total
Benin		1			1
Bolivia		1			1
Brazil		3			3
Burkina Faso		1			1
Cameroon		58	2		60
Central African Republic		1			1
China		5			5
Colombia		9			9
Comoros		1			1
Congo, The Democratic Republic Of		37			37
Ivory Coast		46	1		47
Dominican Republic		5			5
Gambia		17			17
Ghana		8			8
Guatemala		2			2
Guinea (Conakry)		130	1	2	133
Guinea-Bissau		4	1		5
Honduras		1	1		2
India			2		2
Kenya		4			4
Mali		2			2
Morocco		1			1
Nicaragua		1			1
Nigeria		81	3		84
Paraguay		4			4
Romania		5			5
Senegal		2			2
Sierra Leone		1			1
Ukraine		3			3

Venezuela	3			3
Vietnam	5	8		13
No data	1			1
Total	443	19	2	464

2nd Semester of 2017

GENERAL DATA 2ND SEMESTER OF 2017					
semester detection	THB	Female	Male	No data	Total
2nd semester	Sexual Exploitation Purposes	442	9	1	452
	Labour Exploitation Purposes	1	7		8
	Other Purposes	2			2
Total		445	16	1	462
NATIONALITY		Female	Male	No data	Total
Albania		2			2
Algeria		3			3
Algeria		1			1
Brazil		6			6
Burkina Faso		5			5
Cameroon		45			45
Central African Republic		1			1
Chad		2			2
China		1	1		2
Colombia		4	1		5
Congo		7			7
Congo, The Democratic Republic Of		23	1		24
Ivory Coast		124	1		125
Costa Rica		1			1
Dominican Republic		2			2
El Salvador		1			1
Eritrea		3	5		8
Gambia		13			13
Ghana		2			2
Guinea		25	1		26
Guinea (Conakry)		59			59
Equatorial Guinea		3			3
Guinea-Bissau		19			19
Honduras		1		1	2
Liberia		3			3
Mali		1			1

Morocco	3			3
Mexico	1			1
NIGER	1			1
Nigeria	46			46
No Recon. (Tibet)	2			2
Paraguay	11			11
Russia	1			1
Senegal	4			4
Sierra Leone	8			8
No data	6			6
SOMALIA	1			1
Venezuela	4			4
Vietnam		6		6
Total	445	16	1	462

1st semester of 2018:

THB		Women	Men	Total
1st semester	Sexual Exploitation Purposes	717	14	731
	Labour Exploitation Purposes	4	13	17
	Other Purposes	9		9
Total 1st semester		730	27	757

NATIONALITY	Women	Men	Total
Albania	1		1
Algeria	2		2
Argentina	2		2
Bangladesh		1	1
Brazil	2		2
Cameroon	43	1	44
Central African Republic	2		2
Chad	1		1
China	2		2
Colombia	15	1	16
Comoros	12		12
Congo	5		5
Congo, The Democratic Republic Of	47	6	53
Ivory Coast	114	1	115
Cuba	2		2
Dominican Republic	3		3
El Salvador	1		1

Gambia	10		10
Ghana	7		7
Guinea (Conakry)	269	3	272
Equatorial Guinea	10		10
Guinea-Bissau	6		6
Haiti	1		1
Honduras	1	1	2
Jamaica		1	1
Liberia	1		1
Mali	11		11
Morocco	7		7
Nigeria	74		74
Panama	1		1
Paraguay	4		4
Russia	2		2
Senegal	18		18
Serbia	1		1
Sierra Leone	5		5
Somalia	2		2
Sri Lanka	1		1
Ukraine	2		2
Venezuela	13		13
Vietnam	28	12	40
Zambia	1		1
No data	1		1
Total	730	27	757

2nd semester 2018:

YEAR	Semester	THB	Female	Male	Totals
2018	2nd semester	Sexual Exploitation Purposes	1,161	33	1,194
		Labour Exploitation Purposes	15	11	26
		Other Purposes	10	8	18
Total 2nd semester			1,186	52	1,238
NATIONALITY			Female	Male	Totals
Angola			5		5
Algeria			2		2
Brazil			4		4
Burkina Faso			1		1
Cameroon			54	1	55
Central African Republic			9	1	10
Chad			1		1

China	2		2
Colombia	12	1	13
Comoros	18		18
Congo	5		5
Congo, The Democratic Republic Of	45		45
Ivory Coast	254	12	266
Cuba	3		3
Dominican Republic	2		2
El Salvador	2		2
Eritrea	3	5	8
Gambia	6		6
Ghana	7		7
Guatemala	1		1
Guinea (Conakry)	504	8	512
Equatorial Guinea	4		4
Haiti	1		1
Honduras	6		6
Kenya	3		3
Liberia	5		5
Mali	46	1	47
Morocco	20	7	27
Nicaragua	2		2
Nigeria	74	4	78
Pakistan	1		1
Peru	1		1
Senegal	25		25
Sierra Leone	9	1	10
Syria	1		1
Somalia	1		1
Venezuela	15		15
Vietnam	20	8	28
Afghanistan		1	1
Iran	1	2	3
Palestine Eonu	3		3
South Africa	2		2
Mauritania	2		2
Togo	1		1
Niger	1		1
Gabon	1		1
No data	1		1
Totals	1,186	52	1,238

1st semester 2019:

THB dealt with in 2019	Purpose	Women	Men	Total
1st Semester of 2019	Sexual Exploitation Purposes	494	19	513
	Labour Exploitation Purposes	8	28	36
	Other purposes	27	2	29
Total		529	49	578
THB Nationalities		Women	Men	Total
Angola		1		1
Algeria		2		2
Bangladesh			13	13
Bolivia			2	2
Brazil		2	1	3
Burkina Faso		1		1
Cameroon		13		13
Central African Republic		1		1
Colombia		26	3	29
Comoros		15		15
Congo, The Democratic Republic Of		5		5
Ivory Coast		127	4	131
Dominican Republic		1		1
Gambia		5		5
Ghana		3	1	4
Guinea Conakry		179	1	180
Guinea-Bissau		1	1	2
Haiti		9		9
Honduras		2		2
Mali		18		18
Morocco		17		17
Nicaragua		2	1	3
Nigeria		30	7	37
Pakistan			1	1
Paraguay		5		5
Russia		1		1
Senegal		12		12
Sierra Leone		2	1	3
Somalia		7		7
Venezuela		27		27
Vietnam		3	10	13
Belarus		1		1
Togo		1		1

Mauritania	3		3
Tunisia	1		1
Nepal		2	2
Yemen		1	1
No data	6		6
Total	529	49	578

2nd Semester 2020

NO. OF POSSIBLE THB: Data disaggregated by sex and exploitation purpose 2nd semester of 2020

THB	Female	Male	Total
Sexual Exploitation Purposes	246	28	274
Labour Exploitation Purposes	8	8	16
Other purposes	22	3	25
Total	276	39	315

NATIONALITY: data disaggregated by sex 2nd semester 2020

NATIONALITY	Female	Male	Total
Angola	1	1	2
Algeria	11		11
Argentina	1		1
Cameroon	11	1	12
China	2		2
Colombia	50	6	56
Congo	1		1
Congo, The Democratic Republic Of	1		1
Ivory Coast	78	13	91
Dominican Republic	1		1
Ecuador	1		1
Gambia	1		1
Georgia	1		1
Ghana	1		1
Guatemala	2		2
Guinea	23	3	26
Guinea (Conakry)	2		2
Honduras	4		4
Mali	15	1	16
Morocco	20	7	27
Mauritania		1	1
Nigeria	13		13

New Zealand	1		1
Pakistan	1	2	3
Paraguay	6		6
Peru	2	1	3
Russia	1		1
Senegal	6	1	7
Sierra Leone	2		2
Syria	1		1
Venezuela	15	2	17
Romania	1		1
Total	276	39	315

As can be seen from the data we are providing, within the framework of the DGPPIAH, the highest number of persons detected and helped have been women for purposes of sexual exploitation. The nationalities vary according to the semesters, but some significant nationalities that are repeated in the top positions are Nigeria, Colombia, Guinea Conakry and Ivory Coast.

For more data at national level, we recommend the annual reports prepared by CITCO, known as the annual balance sheet, which can be consulted at the following web address: <http://www.interior.gob.es/es/prensa/balances-e-informes/2015>

Organic Law 1/2015 of 30 March, in force since 1 July 2015, amended the Criminal Code, on the one hand to include the following in Article 177 bis among the facts constituting trafficking; exchange or transfer of control of persons; among the ways in which the offence is committed, delivery or receipt of payments or benefits for obtaining the consent of the person controlling the victim; and, among the aims, exploitation for the victims to commit crimes for the exploiters, and forced marriage. Additionally, the concept of vulnerability is defined in line with the European Directive.

At present, pursuant to Article 177 bis of the Criminal Code, human trafficking is deemed to be “the entrapment, transport, transfer, welcoming or reception of persons, including the exchange or transfer of control of such persons, using violence, intimidation or deception, or abuse of a situation of advantage or a victim’s need or vulnerability, whether a national or foreigner, or involving the delivery or receipt of benefits for securing the consent of the person controlling said victim, for any of the following ends:

- a) Imposition of forced labour or services, enslavement, or practices similar to enslavement, bond or begging.
- b) Sexual exploitation, including pornography.
- c) Exploitation for criminal activities.
- d) Extraction of body organs.
- e) Forced marriage.

There is a situation of need or vulnerability where the person in question has no other real or acceptable alternative than to submit to the abuse.

The consent of a victim of human trafficking is irrelevant if any of the means indicated in paragraph one of this Article was used.

Should the conduct involve a minor, this is deemed to be trafficking even in the absence of recourse to any of the means set out.

A victim of human trafficking is considered to be any individual where there are indications that they were the target of the conduct described in the above points, even if the exploitation was not consummated, and irrespective of whether charges were brought by the alleged victim.

The situation is one of vulnerability if the person in question has no other real or acceptable alternative than to submit to the abuse. Minors are particularly vulnerable. Other factors to be kept in mind in evaluating the vulnerability of victims are their sex, the gestation stage, health and disability”.

In addition to the foregoing, of note in relation to the prosecution of the crime is the revision implemented in Organic Act No. 1/2015 of 30 March regulating the confiscation of the belongings, assets, equipment and the profit from criminal activities. Article 127 bis enlarges confiscation to other circumstances involving criminal activity sustained over time which may generate significant financial benefits, such as human trafficking.

Law 42/2015 of 5 October reforming Law 1/2000 of 7 January, the Civil Proceedings Act, continues to acknowledge the right to free legal aid to victims of gender-based violence and human trafficking, and their successors in case of the death of the victim, in the terms introduced in Legislative Royal Decree No. 3/2013 of 22 February amending Justice Administration charges and the system of free legal aid, and also making improvements to the recognition of this right.

Specifically in the case of victims of gender-based violence and human trafficking, the following is provided:

- Free legal aid is to include in addition to other benefits free advice and guidance at the time immediately preceding the filing of the claim or complaint.
- The Bar Association will have a permanent duty shift to provide prior advisory services and legal assistance for the victims of these offences.
- Law 4/2015 of 27 April, the Victims of Crime Statute, is a general catalogue of the procedural and extra-procedural rights of all victims of crime, providing a judicial and social response to victims and members of their families, and also providing for specific care for the most vulnerable, such as trafficking victims and minors.

Specifically, the needs to protect victims of human trafficking are to be taken into account in their individual assessment, to define the special protection requirements and the measures that must be adopted, given form in specific protection measures designed to avoid their secondary victimisation during the investigation and hearing.

- Royal Decree 1109/2015 of 11 December was subsequently passed, enabling the Victims of Crime Statute (Law 4/2015 of 27 April) and regulating the Offices for Assistance for the Victims of Crime).
- Organic Law 8/2015 of 22 July modifying the system of protection for children and adolescents and Law 26/2015 of 28 July also amending the system of protection for children and adolescents improve the care and protection of the sons and daughters of women who are victims of gender-based violence and of minors suffering from other forms of violence against women, most notably the inclusion for the first time of the protection of minors from all forms of violence, including human trafficking, among the principles guiding the action of the public powers.

Specifically in connection with the enhanced protection of minor victims of human trafficking:

- For foreign minors in Spain, the right is included to education, healthcare and basic social services and benefits in the same conditions as Spanish minors, providing for the Public Administrations to safeguard especially vulnerable groups such as underage victims of human trafficking.
- There is provision whereby, if it is not possible to establish that a person has reached the age of majority, that person will be considered to be a minor for the purposes of this Act, until their age is established.

- To enable the Public Body concerned to assume the guardianship of a minor by law, when such minor is abandoned, when identified as a victim of human trafficking and there is a conflict of interest with parents, guardians and keepers.
- A requisite is established whereby access to and the practice of professions, occupations and activities involving habitual contact with minors, for there to be no final conviction for, among other offences, those related to prostitution and the sexual exploitation and corruption of minors, and human trafficking.

This legislation moreover enhances the protection the Spanish legal system provides for victims of human trafficking irrespective of age with, on the one hand, amendment of Article 59 bis of Organic Act No. 4/2000 on the rights and liberties of aliens in Spain and their social integration, setting the minimum term for re-establishment and reflection at 90 days; and, on the other, the inclusion of benefits for companies that hire victims of human trafficking, in Act No. 43/2006 of 29 December promoting growth and employment.

- Instruction 6/2016, of the State Secretariat for Security on the actions of the state law enforcements agencies in combatting human trafficking and on collaborating with organisations and bodies with accredited experience in care for victims.

On the basis of periodic meetings between the National Rapporteur and civil society organisations, it was decided to consider systematising their involvement, in collaboration with State Law Enforcement Agencies, in detecting and identifying the victims of human trafficking.

As a result, on 15 June 2016 the Secretary of State for Security issued Instruction 6/2016 to enhance cooperation with non-governmental organisations and members of civil society in fighting human trafficking. Thus the Ministry of the Interior has enabled the National Police and the Civil Guard to establish the figure of the Social Interlocutor in human trafficking, aimed not just to provide a new tool for preventing and fighting this type of crime, but also to bolster coordination of the actions of the State Law Enforcement Agencies with the bodies and social entities concerned with protecting persons who suffer from this execrable crime.

The State Secretariat's Instruction provides for the creation of two sorts of Social Interlocutors in the Fight against human trafficking, one acting nationally and others operating at the territorial level. While the former has the specific missions for cooperation and coordination with the Territorial Social Interlocutors, the latter are responsible for the coordination, cooperation and implementation of actions related to crimes linked to human trafficking in their territorial sphere. Moreover, these experts are entrusted with maintaining permanent contacts with organisations and bodies with accredited experience in the care of victims of trafficking. The aim of these contacts is to promote collaboration, guarantee reciprocal exchange of information, trends and statistics, and to foster the coordination protocols that prove necessary in caring for victims, and specialised police backup in the field.

According to the Instruction, when a Social Interlocutor – or if applicable the units of the State Law Enforcement Agencies with the authority to identify the victim and then investigate the facts – is advised that the specialised bodies have detected a potential victim they will, using the quickest and most effective means, ask for the information those bodies have, and which will be taken into account in identifying the victim.

Likewise, whenever these specialised entities have relevant information on a potential victim, they will make it known to the State Law Enforcement Agencies through the channels established with the relevant Social Interlocutor, using the quickest and most effective means for that information to be assessed in identifying the victim and for other protective actions.

The Instruction sets out the procedures for detecting and identifying victims as provided for in the 28 October 2011 Framework Protocol for the Protection of Victims of Human Trafficking. Thus it indicates that, from the very moment at which it may be considered that there are reasonable indications to believe

that someone is a victim of trafficking, the police units will take the necessary measures designed to guarantee the protection of their rights, medical and social assistance, and the necessary legal support.

It also provides for victims to be identified as provided for in the Spanish legislation, by police units with specific training in preventing and combatting trafficking, and in identifying and assisting them. The State Law Enforcement Agencies will nonetheless contact the specialised organisations to enable them, once a possible victim has been found, to participate in the early identification and subsequent identification interview, thereby creating a formal space for the involvement of civil society in processes to identify victims of human trafficking and ensure them greater protection and assistance.

To monitor and evaluate implementation of this Instruction, the National Rapporteur deals periodically with the matter at meetings held with the Spanish Network to combat Human Trafficking. Similarly, meetings have been organised with the Social Interlocutors analysing the advances, difficulties and future challenges for the Instruction's effective application.

The State Law Enforcement Agencies (Policía Nacional and Guardia Civil) have issued their own internal rules for the correct implementation, monitoring and evaluation of the results of this Instruction.

☐ In November 2018, the Commission for Equality of the General Council of the Judiciary presented the "Guidelines on criteria for judicial action in cases of trafficking in human beings". Taking into account the principle of judicial independence, it is not possible to provide instructions to the judges about the way they must carry out their work, even less about the decisions they must adopt in specific cases. Therefore, any action attempted to be deployed in the area of the judiciary must be in the form of recommendations or good practices.

That is why these Guidelines are a complete catalogue of recommendations and good practices for members of the Judiciary to investigate and prosecute criminal cases of trafficking in human beings in all its forms, and for administrative proceedings that are related to trafficking in human beings (mainly, cases associated to immigration and asylum). Moreover, the Guidelines contain a long section explaining the real significance and dimension of this criminal phenomenon with the aim of informing and raising awareness and another section about informing and facilitating international judicial cooperation in this matter.

The Guidelines have been disseminated online to all the judicial career and to all legal practitioners and have been edited in paper and distributed to all criminal and administrative judicial bodies, as well as all the specialized delegations of the Prosecutor's Office. The specific impact of the Guidelines in the judicial response to trafficking in human beings could not yet be evaluated because it was disseminated in the last few months of the year.

- Organic Law 8/2021 of 4 June 4 on comprehensive protection for children and adolescents against violence. 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, overcoming 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 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 negative 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 negative 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 449ter establishes:

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 previous article. This procedure shall be carried out with all of the guarantees for accessibility and necessary support.

- 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:

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 boost from the Pact of State against gender violence and following the recommendations from the GREVIO group of experts' opinion; 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.

Characteristics of detected, identified and protected (presumed) third-country national victims of human trafficking (including age, gender, country of origin, migration status), trafficking purposes (e.g. sexual exploitation, including forced prostitution, forced labour or services, slavery and servitude related practices, as well as the removal of vital organs). latest patterns and trends in the reference period 2015-2020.

The situation regarding trafficking in human beings (THB) in Spain has greatly evolved since 2015. The changes have been considerable in all areas, from important legislative reforms to significant improvements in the prevention and fight against trafficking in human beings, protection and assistance to victims and cooperation and coordination among institutions at national and international level.

One of the elements that remained unchanged is the situation of our country as a destination and transit country of the victims of trafficking in human beings. The strategic location of Spain in Europe makes it the door of two continents: America and Africa. Besides, Spain continues to be an attractive destination for Asian citizens who try to later access the United Kingdom, United States of America or Canada.

Notwithstanding the foregoing, one of the most remarkable phenomena in the last years is the recruitment of victims within our borders, that is, domestic trafficking. This phenomenon has consolidated in the period 2017-2020: 7% of the police reports show Spain was the country of recruitment, which represents 6% of the total.

In order to identify the modus operandi and the trends for the period 2015-2020, this is an analysis of trafficking in human beings from the point of view of recruitment, transfer and exploitation of the victims.

Recruitment

The forms of recruitment are inherently linked to the nationality of the victims and the offenders. The modus operandi change substantially depending on whether the networks are Nigerian, Chinese, Romanian or South American.

Among the victims from Eastern Europe, the "lover boy" method continues to be the most common. The recruiters approach their victims, usually from poor backgrounds and low educational level, and manage to establish a relationship with them and later on convince them and their families to travel to Spain. In order to convince them, they offer the victims work in the hotel and restaurant sector, caring of the elderly or

children, etc. Sometimes, the deception is not in the type of activity but in the working conditions. Some victims know the activity they will carry out, mostly prostitution, but don't know the semi-slavery conditions and even the real debt they will have with their traffickers.

The modus operandi of Nigerian networks is linked to voodoo-juju practices. However, in the last two years, a considerable decrease of the number of victims of this nationality was observed. Among the potential reasons that led to this decrease may be the revocation of voodoo rites or curses by the Oba of Benin City (Nigeria) in 2018. Most of the victims are recruited in Edo state, taking advantage of the vulnerability generated by poverty and lack of opportunities in the country.

The victims from South American countries are usually recruited being deceived about the conditions they will be subject to in Spain. Many times they know their final destination will be prostitution but they ignore the real conditions. In other cases, they are deceived with false job offers to care elderly or children or to work as waitresses.

In the case of Asian victims, many of them are brought to Spain and once they are here, under the excuse of repaying the debt generated to facilitate their entry in the country, they suffer several forms of exploitation, among them labour exploitation, and are also forced to commit criminal activities (marijuana cultivation).

The recruitment means have not changed over the years: job advertisements in newspapers, travel agencies, recruitment using acquaintances or family members of the victims who are part of the network facilitating their transfer and exploiting them, etc. Nevertheless, the recruitment factor with the largest rise has been undoubtedly the new technologies. Social media and the internet are now one of the top means to recruit new victims. Even if we don't have exact data, this form of recruitment was used in at least 10% of the registered cases; however this figure may probably be much higher. During COVID-19 pandemic the use of new technologies has experimented an outstanding increase.

Finally, the age of the victims and their sex are stable compared to the previous report. In trafficking for sexual exploitation, the average percentage of women is more than 90%, while in the case of trafficking for labour exploitation, men represent around 80% of the total. Regarding the age of the victims of THB for sexual exploitation, they are mostly between 18 and 32 (70%). In the case of THB for labour exploitation, the age of most victims is between 18 and 42 (80%).

The figures of children victims identified continue to be limited compared to the total number of victims identified. This does not mean there are no children victims but rather the children are hidden and it is difficult to detect them.

Concerning women from Latin America, the Government Delegation for Gender Violence has informed (according to the information provided by non-governmental agencies) about new profiles which, even if they are included in our Criminal Code, differ from the stereotype of victim of trafficking who suffers violence or is coerced and threatened. Specifically, the recruitment of women in a situation of special vulnerability who are fleeing situations of poverty, need or conflict and are recruited by trafficking networks that do not finance their journey anymore but request them to repay that debt later. In order to start the journey, the victims are put in contact with the lenders so that, when the victims arrive to Spain, if they are not finally exploited (because they escape the network or are sent back to the border), this will entail no cost for the trafficking network but the victims are indebted in their country of origin, compromising their families.

Transfer

The routes used by the traffickers have not changed substantially. Nevertheless, as regards the Mediterranean area, the migration crisis of the last few years has generated new routes and the trafficking networks and the traffickers have adapted to the new circumstances. This route has been specially used by Nigerian networks to bring Nigerian women into Europe. Specifically, a wide majority of the Nigerian women identified in Spain in 2017 and 2018 stated that they had come into Europe through Italy coming from Libyan coasts after crossing Niger and Algeria.

Another key element that needs to be mentioned is the link between trafficking in human beings and population displacements generated by internal conflicts in certain countries. As an example, in Spain the identification of Venezuelan victims went up from 2 victims in 2016 to 75 in 2019. This has a direct correlation

with the serious internal situation of the country, which has caused an increase in the applications for international protection by Venezuelan citizens, going from 4.196 to 40.886 applications (+875%).

The networks take advantage of the legal facilities to introduce victims in our country. This is the case of Colombian citizens who, from 2016 do not need a visa to access the Schengen area. This fact has facilitated, together with other structural factors in the countries of origin, for the number of asylum applications in Spain by these citizens to increase from 656 in 2016 to 29.410 in 2019. In parallel to this fact, a considerable increase was observed in the number of Colombian victims of trafficking in human beings, from 1 in 2016 to 61 in 2020.

Exploitation

Victims are picked up by members of the criminal groups and transferred to the places where they will be exploited, mostly erotic night clubs with accommodation for the victims within the premises, private apartments or farms located in almost all our national territory.

At this stage of the process, the victims are informed about the real nature of the activity they will carry out and the circumstances on which it will be developed. If necessary, they are forced into prostitution by means of threats, aggressions or coercion. Likewise, they are informed about the amount of their debt and the repayment conditions, which are generally increased by abusive charges in accommodation and maintenance, and even economic sanctions for breaking their “labour obligations”.

In the field of trafficking for labour exploitation, begging or committing criminal activities, the real nature of the activity and their conditions are not discovered until they are about to carry them out. The victims’ personal documents are taken away from them in advance under the pretext of drawing up a labour contract that will never become a reality.

Spain has the capacity to gather data about all forms of trafficking covered in the Directive 2011/36/EU. Since 2011, there are reliable data about trafficking in human beings for the purposes of sexual exploitation, since 2015 about trafficking in human beings for the purposes of labour exploitation and since 2016 about the rest of the purposes.

Trafficking for sexual exploitation continues to be the most widespread form of trafficking. In 2020, preliminary data show that 59% of the victims correspond to this category, 37% to labour exploitation and 4% correspond to the remaining forms (forced marriage and commission of criminal activities).

Concerning trafficking for the purposes of sexual exploitation, a growing use of technology has been observed. This use is not exclusively linked, as it was mentioned, to the recruitment of victims, but the traffickers also use technology in other areas associated to exploitation. Among the emerging trends in this regard, one is the control that technologies enable over exploited women (real-time video), the possibility to offer sexual services in chats or mobile apps allowing for higher anonymity, or the use of apps such as Airbnb to facilitate the temporary stay in private apartments where the victims are exploited. This last phenomenon is now more widespread, favouring a decrease in the activity of erotic night clubs. All of this has generated a higher invisibility of the victims due to the difficulty to investigate, but especially in the preventive tasks conducted by the State security forces by means of administrative inspections.

This difficulty made the number of preventive inspections to gradually decrease in the last years (from 2.228 in 2016 to 1.771 in 2019) and, linked to this, the number of people identified as persons at risk in Spain has gone from 10.111 in 2016 to 8.405 in 2019. This decrease has become apparent in the figures about the inspections in erotic night clubs that have clearly gone down, as well as in the number of inspections conducted on women who work in prostitution on the street, that went from 8% in 2017 to 2% in 2019. Figures in this regard in 2020 show a huge decrease due to the ceases or restrictions of non-essential activities during COVID-19 pandemic.

Another fact highlighted by specialized organizations and by the Government Delegation for Gender Violence is the change in the way victims are controlled. Physical violence is now more marginal. However, threats and coercions using psychological fear on the victims are more common, in many cases generating the syndrome of learned helplessness, characteristic of gender violence.

In the area of trafficking for labour exploitation, the main police actions have taken place in farms, especially in the grape, olive or strawberry harvesting campaigns that attract many citizens from EU and non-EU countries to work in our country. The trend in the last years is remarkably upwards for this purpose. These figures are linked to large police operations where a high number of victims are identified. The victims are recruited by means of online ads or newspaper ads in their countries of origin. The intermediaries are in charge of facilitating their transfer and exploiting them during never-ending working hours and collecting their salaries. The conditions where the victims are accommodated usually lack the minimum sanitation and hygiene conditions.

Among the remaining purposes of trafficking, we could highlight the following:

- **Trafficking in human beings for the purposes of exploitation in criminal activities - indoor marijuana cultivation, Chinese criminal organizations:** Cultivation by criminal organizations and groups comprised of Chinese members is a reality in Spain. Rural areas and especially small villages are the main locations of these indoor crops.

These organizations subdue citizens of their own nationality and mainly Vietnamese citizens for caring the cultivation. They threaten and coerce them and keep them under inhuman conditions in industrial plants during the process (3 months approximately) without any contact with the outside world apart from a mobile phone which they can only use to inform the heads of these organizations. They receive a sack of rice every 15 days to eat.

The victims, Asian citizens, are recruited within EU borders taking advantage of the irregular immigration routes to get to Europe. Once they are here, since they are vulnerable people due to their irregular status and since they fear to be returned to their country of origin, they are easy to deceive and subdue, so they are transferred to the cultivation where they will be exploited.

- **Trafficking in human beings for committing criminal activities - “drug flats”.** Also linked to drug trafficking, there are cases of trafficking for the purposes of exploitation for committing criminal activities in relation to the so-called “drug flats”. Two Pakistani citizens have been identified as victims of this practice after investigating a complex criminal network composed of Pakistani nationals involved in drug trafficking who may also be developing trafficking in human being for the purposes of criminal activities, since they foster or participate in the transfer of fellow country people from Pakistan to exploit them once they arrive to Spain, forcing them to sell drugs in Barcelona (under threats and violence) in order to repay the debt (between EUR 13.000 and EUR 26.000). Like the previous ones, this case is now in the pre-trial stage.
- **Trafficking in human beings for committing criminal activities – theft, Bulgarian organizations:** the victims are recruited in their countries of origin, usually among low-income families and unstructured environments. Many times they use social media (Instagram) for the first contact and are then transferred to Spain. Once they are in our country, they are forced to commit theft in crowded places as parties, festivities, markets, etc. taking advantage of the gathering of large crowds. In a significant percentage, the perpetrators of these thefts were forced to commit them by organizations or organized groups that recruit/buy the victims in their countries of origin, often to their parents and make them become real slaves. The organizations force their victims, mostly girls between 14 and 18, benefiting from their vulnerability situation and under threats and coercions to commit these criminal actions. This is why these people should legally be considered victims of THB, and not perpetrators or accomplices of a crime against property.
- **Trafficking in human beings for the purposes of begging:** possibly, together with trafficking for the commission of criminal activities, this form may be the most invisible and difficult to identify. The fear, lack of resources, the absence of self-identification or not knowing the national protection systems makes it very difficult for the State security forces to identify the victims. In this type of trafficking, the age of the victims is often lower as the traffickers look for more compliant profiles and an appearance that facilitates begging. It is also a form of trafficking with high mobility, since the victims are constantly transferred around different regions of Spain with the aim of avoiding detection by the authorities.

Victims are mostly from Romania and Bulgaria and in many cases of Roma ethnicity. In some cases, they have some disabilities or physical deformity to facilitate higher revenue.

- **Trafficking for the purposes of forced marriage:** This is the less documented case in our country. The victims are usually children from Eastern European countries or Morocco and they are forced to marry against their will. These girls are part of a business transaction where the family of the bride provides the dowry, mostly low, and the family of the groom pays the counter-dowry in exchange of having control over the victim with the purpose of exploiting her in other activities (sexual or labour exploitation), which enables them to recover the investment and obtain profit illegally.
- **Cases of combined trafficking:** Even though this is very rare, there are some cases of police operations with victims of more than one form of trafficking. This is the case of a Bulgarian criminal network that forced women (some of them underage) to sexual exploitation and also forced them to commit criminal activities –thefts– in large city centres. Another case was a criminal network that recruited Romanian and Moroccan victims and forced them to beg and also to steal in Murcia. Another significant case involves a criminal network that exploited Paraguayan women sexually in the city of Santiago de Compostela. One of the victims arrived to Spain being pregnant and one of the leaders of the network arranged an illegal adoption when the child was born so this woman continued to be exploited. Finally, there are also cases of drug trafficking linked to sexual exploitation of victims of THB. These victims are forced to sell drugs (cocaine, hashish and other synthetic drugs) to their customers during their sexual services, generating new profit for the criminal networks.

Trends observed in the nationalities of the victims of trafficking since 2017:

- Decrease in the number of Nigerian victims for sexual trafficking. Even if in 2017 and 2018, Nigerian victims were the largest group, the year 2019 confirmed a decrease that had already started in 2018.
- The percentage decrease of Romanian victims for sexual trafficking continues. In 2014 they represented 50% of the total number and in 2019 they **only** represented 10%.
- 2018 and 2019 confirmed the increase in the number and percentage of victims of Venezuelan and Colombian nationality. Both are now first and second place in the ranking of victims by nationality. In 2019 the victims of sexual trafficking from South American countries represented 66% of the total. An increase of victims of Paraguay has been also observed.
- In the field of THB for sexual exploitation, trends regarding nationalities are changing due to the low number of police investigations and the large number of people involved in each of them. This makes any change in the number of investigations have a considerable impact in the difference in the number of victims and their nationalities. Between 2015 and 2017, most of the victims were Romanian, Chinese and Portuguese. However, in 2018 there was a large rise of Vietnamese and Moldovans, who represented 50% of the victims. In 2019, apart from a large increase in the total number of victims, a diversification in their nationalities has been ascertained, where the most representative were Ukrainian, Moroccan, Romanian and Pakistani.
- Regarding the rest of the purposes, fewer investigations were conducted in comparison to cases of sexual and labour exploitation, so it is difficult to establish trends. Nevertheless, most of the victims come from Eastern European countries or Morocco.

With regard to the effects of COVID-19 pandemic in trafficking in human beings, the Intelligence Centre against Terrorism and Organised Crime in its 2020 Annual Report has come to the following conclusions:

- 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.
- 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.

Section 1: Detection of third-country nationals (presumed) victims of trafficking in human beings

Measures in place to detect (presumed) third-country national victims of trafficking in human beings	Details
Self-reporting	According to the account of the asylum applicant
Awareness raising campaigns	State Law Enforcement Agencies have launched awareness-raising campaigns on sex and labour trafficking, promoting awareness of reporting channels for victims.
Collection of indicators	We pay special attention to: age, company (which persons travel with the applicant and what relation they have), debts, national origin
Intelligence gathering by investigative services (e.g. police, labour inspectorate)	State Law Enforcement Agencies carry out intelligence analysis aimed at detecting and dismantling criminal groups dedicated to human trafficking. In addition and proactively, they carry out administrative inspections in places where prostitution is practised and in work centres to detect the presence of possible cases of trafficking.

	These inspections are carried out in collaboration with the Labour Inspectorate.
Proactive screening in asylum procedures	Yes, with two parallel processes: police and specialized organizations, both of which practices specific interviews
Proactive screening in migration procedures	
Other	

Measures in place to promote and facilitate self-reporting by (presumed) third-country national victims of trafficking in human beings

State Law Enforcement Agencies (Policía Nacional and Guardia Civil) have been engaged in active publicity campaigns in all the audio-visual media, printed press, radio, which have ensured an inflow of information that has led to fruitful investigations, including being able to free very young victims.

Likewise the profile has been raised on the social networks most widely accepted among the Spanish population such as Facebook, Twitter, Tuenti and YouTube, where up to date information is provided, so serving as a warning to the public, while also using these channels to give advice about preventing human trafficking and to raise awareness about the victims' suffering.

They also have specific websites and 24 hour telephone services for communicating with the State Law Enforcement Agencies.

Over the years 2018 and 2019, Spain has participated in the design of a THB prevention campaign at European level, coordinated by the European Crime Prevention Network (EUCPN).

The Spanish participation was coordinated by the Focal Point of the National Rapporteur for Trafficking in Human Beings.

The basic principles established for the campaign were:

- The campaign should be targeting people who have not been identified as victims of THB, either because they are not aware that they are victims or because they don't know there are efficient means to receive protection and assistance.
- The campaign highlighted the importance of adapting the message to the age of the victims and to their cultural and educational level in order to generate a message that is easily understandable and adapted to all of them.
- The campaign must contain information about the basic rights of the victims:
 - Assistance and support
 - Protection of the victims
 - Compensation
 - Labour integration and rights
 - Period for recovery and reflection and residence permit for victims of third countries
 - Assisted return
- Regarding the places and the dissemination means with preferential attention, it was determined to use: embassies, consulates, ports, airports and border posts, service stations, radio, TV and the internet and social media.
- Concerning the format of the information: short videos, flyers, leaflets, stickers, posters, etc.

- In terms of the languages for the launching campaign, it was agreed to use all the languages of the EU as well as languages of those third countries which, according to the reports of the European Commission, represent the highest percentage of victims of THB.

The final format of the campaign included printable material with the national contact points for the victims of trafficking and a preventive video explaining the main purposes of this crime.

The campaign was launched on the 18th of October 2018, coinciding with the European Day against Trafficking in Human Beings and was disseminated from the web site and social media of the Ministry of the Interior.

Specific measure to detect (presumed) third-country national victims of trafficking in human beings:	Details
within asylum procedures	The measures mentioned above
within other migration procedures (e.g. seasonal workers, domestic workers, au pairs, students)	
who are voluntary returnees	
who fall under other categories included in the definition of vulnerable persons adopted for this study (e.g. minors, unaccompanied minors, disabled people, elderly people, pregnant women)?	
who are in an irregular situation	

Organisations / authorities trained / competent to detect (presumed) third-country national victims of trafficking)

Organisation / authorities	Trained to detect (presumed) third-country national victims of trafficking? Y/N	Competent to detect (presumed) third-country national victims of trafficking? Y/N	Details
Police	Y	Y	
Border guards	Y	Y	
Labour inspectors	Y	Y	
Migration services	Y	Y	
Asylum case officers	Y	Y	
General practitioners	N	N	
Other health workers	N	N	
Employers	N	N	
Trade unions	Y	N	

Civil society organisations	Y	Y	
Others			

National referral mechanisms (or alternative mechanisms in absence of one) in the detection of (presumed) third-country national victims of trafficking in human beings

Spain has numerous tools that articulate the procedures for referral and assistance to victims. Among the most relevant are the following:

The Framework Protocol for the Protection of Victims of Human Trafficking, concluded in 2011 by the Ministries of Health, Social Services and Equality, the Interior, Justice, Employment and Social Security, the General State Prosecutor's Office and the General Council of the Judiciary constitutes the National Referral Mechanism in the field of human trafficking. It also established for the first time the formal communication systems between the administrations with authority in the matter, and acknowledged the work of non-profit-making organisations specialised in the care of the victims.

Its application extends to human trafficking for any ends, irrespective of the victims' sex, age, origin or administrative situation. This protocol has been the basis for the articulation of various regional protocols, until now four in number: in Catalonia (17 October 2013), Galicia (prior to the Protocol Framework and updated in March 2012 to adapt to that Protocol's content), in Extremadura (29 June 2015), and in Navarra (approved by the Navarra Forum against trafficking of women for sexual exploitation on 2 December 2016).

This Protocol is considered to be the national referral mechanism on trafficking in human beings in Spain and is available in English and French.

The Framework Protocol on certain actions in relation to Unaccompanied Foreign Minors (MENA): concluded on 22 July 2014 by the Ministers of Justice, Employment and Social Security, Health, Social Services and Equality, the General State Prosecutor, the Secretary of State for Security in the Ministry of the Interior and the Under-Secretariat of the Ministry of Foreign Affairs and Cooperation, it was published in the Official State Gazette on 16 October of the same year.

The Protocol is designed to establish the guidelines for coordinating the processes for identification, determination of age and referral to the public body for the protection of minors, and the proper functioning of the Register of Unaccompanied Foreign Minors (RMENA), focusing on guaranteeing the greater interest of the minor, and including among the questions regulated aspects related to the protection of possible underage foreign victims of trafficking.

The Protocol for detection and action in possible cases of human trafficking for sexual exploitation, approved by the General Secretariat for Immigration and Emigration (SGIE) in the Ministry of Employment and Social Security, addressed to professionals in migration centres attached to the SGIE and centres managed by NGOs it subsidises, to promote coordinated and homogeneous intervention by those professionals, to assist in the detection of possible victims of human trafficking, and referral to the right care and protection facilities.

Instruction 6/2016, of the State Secretariat for Security on the actions of the state law enforcements agencies in combatting human trafficking and on collaborating with organisations and bodies with accredited experience in care for victims.

On the basis of periodic meetings between the National Rapporteur and civil society organisations, it was decided to consider systematising their involvement, in collaboration with State Law Enforcement Agencies, in detecting and identifying the victims of human trafficking.

As a result, on 15 June 2016 the Secretary of State for Security issued Instruction 6/2016 to enhance cooperation with non-governmental organisations and members of civil society in fighting human trafficking. Thus the Ministry of the Interior has enabled the National Police and the Civil Guard to establish the figure of the Social Interlocutor in human trafficking, aimed not just to provide a new tool for preventing and fighting this type of crime, but also to bolster coordination of the actions of the State Law Enforcement Agencies with the bodies and social entities concerned with protecting persons who suffer from this execrable crime.

The State Secretariat's Instruction provides for the creation of two sorts of Social Interlocutors in the Fight against human trafficking, one acting nationally and others operating at the territorial level. While the former has the specific missions for cooperation and coordination with the Territorial Social Interlocutors, the latter are responsible for the coordination, cooperation and implementation of actions related to crimes linked to human trafficking in their territorial sphere. Moreover, these experts are entrusted with maintaining permanent contacts with organisations and bodies with accredited experience in the care of victims of trafficking. The aim of these contacts is to promote collaboration, guarantee reciprocal exchange of information, trends and statistics, and to foster the coordination protocols that prove necessary in caring for victims, and specialised police backup in the field.

According to the Instruction, when a Social Interlocutor – or if applicable the units of the State Law Enforcement Agencies with the authority to identify the victim and then investigate the facts – is advised that the specialised bodies have detected a potential victim they will, using the quickest and most effective means, ask for the information those bodies have, and which will be taken into account in identifying the victim.

Likewise, whenever these specialised entities have relevant information on a potential victim, they will make it known to the State Law Enforcement Agencies through the channels established with the relevant Social Interlocutor, using the quickest and most effective means for that information to be assessed in identifying the victim and for other protective actions.

The Instruction sets out the procedures for detecting and identifying victims as provided for in the 28 October 2011 Framework Protocol for the Protection of Victims of Human Trafficking. Thus it indicates that, from the very moment at which it may be considered that there are reasonable indications to believe that someone is a victim of trafficking, the police units will take the necessary measures designed to guarantee the protection of their rights, medical and social assistance, and the necessary legal support.

It also provides for victims to be identified as provided for in the Spanish legislation, by police units with specific training in preventing and combatting trafficking, and in identifying and assisting them. The State Law Enforcement Agencies will nonetheless contact the specialised organisations to enable them, once a possible victim has been found, to participate in the early identification and subsequent identification interview, thereby creating a formal space for the involvement of civil society in processes to identify victims of human trafficking and ensure them greater protection and assistance.

To monitor and evaluate implementation of this Instruction, the National Rapporteur deals periodically with the matter at meetings held with the Spanish Network to combat Human Trafficking. Similarly, meetings have been organised with the Social Interlocutors analysing the advances, difficulties and future challenges for the Instruction's effective application.

The State Law Enforcement Agencies (Policía Nacional and Guardia Civil) have issued their own internal rules for the correct implementation, monitoring and evaluation of the results of this Instruction.

At DGPPIAH level, the referral mechanism, in the event that the possible victim does not want to initiate formal identification or is finally not formally identified, shall be indicated in the DGPPIAH Protocol for the

Detection and Action in Possible Cases of Trafficking in Human Beings for Sexual Exploitation (without prejudice to its similar application to any purpose of trafficking in human beings).

Section 2: Identification of (presumed) third-country national victims of trafficking in human beings

National procedures to identify (presumed) third-country national victims of trafficking in human beings

Organisation / authorities	Competent to identify (presumed) third-country national victims of trafficking? Y/N	Details
Police	Y	
Border guards	Y	
Labour inspectors	N	
Migration services	N	
Asylum case officers	N	
Civil society organisations	N	
Others	N	

Specific measures in place to identify (presumed) third-country national victims of trafficking in human beings

In Spain, the measures adopted for the identification of victims of trafficking in human beings apply equally to national, EU and third-country victims. However, third-country nationals in an irregular situation are entitled to a recovery and reflection period of at least 90 days, as well as to a residence and work permit on the basis of their cooperation in the investigation of the crime, or on the basis of their personal circumstances. The aforementioned Framework Protocol sets out the specific procedures to be used in cases of third countries victims.

In Spain a (presumed) third-country national victim has to be formally identified by a competent authority in order to apply for / be granted a reflection period / residence permit / protection status.

Evolution of national referral mechanisms (or alternative mechanisms in absence of one) in the identification of (presumed) third-country national victims of trafficking in human beings

As mentioned in the previous question, and given that there may be many ways of identification, the initial identification, understood as the detection of reasonable indications that may lead to a formal identification by the State Security Forces and Corps, must be carried out by specially trained professionals (police officers, social workers, labour inspectors, doctors, assistance providers, etc.) who follow the agreed identification procedures and criteria.

However, the only ones responsible for the formal identification process are the State Security Forces and Corps.

During the identification process, potential victims may not be returned to their territories and may benefit from assistance and protection measures.

Section 3: Protection of (presumed) third-country national victims of trafficking in human beings

Type of assistance	Reflection period	Dublin III procedure	Asylum procedure	Residence permit holders	Short term visa/visa-free stay
Information on risks and protection mechanisms	Police	Asylum Office	Asylum Office	NGO's	NGO's
Appropriate and safe accommodation	Migration Department		Migration Department	NGO's	NGO's
Necessary medical treatment	Sanitary Services	Sanitary Services	Sanitary Services	Sanitary Services	Sanitary Services
Counselling and information	Police/specialized organizations		Specialized organizations/ police	NGO's	NGO's
Legal assistance	Specialized organizations / bar association		Specialized organizations / bar association	NGO'S	NGO'S
Translation and interpretation	Police		Asylum office	NGO'S	NGO'S
Psychological assistance	Police		Migration Department	NGO'S	NGO'S
Subsistence (material assistance)	Migration Department	Migration Department	Migration Department	NGO'S	NGO'S
Social and economic integration	Migration Department	Migration Department	Migration Department	NGO'S	NGO'S
Protection against re-victimisation	Migration Department	Migration Department	Migration Department	NGO'S	NGO'S
Other			attention in specialized resources with professionals 24 hours and all the necessary support. Migration Department		

Mali	1			1
Senegal	1			1
Guinea-Bissau	2			2
Venezuela	1	3		4
The principle of non-refoulement for victims of trafficking in human beings				1

In line with European legislation, Spain seeks to guarantee the principle of non-refoulement of persons who may have been victims of trafficking or may be at risk of being trafficked, as well as their access to mechanisms for applying for international protection. This principle of non-refoulement shall be applied from the outset, as soon as slight indications of being a possible victim of trafficking are detected.

In relation to asylum, the recognition of signs of trafficking motivates admission to international protection system and the application of non refoulement principle.

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Typology(ies) of reflection periods, residence permit(s), protection status(es) and national programme(s) are available to protect (presumed) third-country national victims of trafficking,

a) organisations / authorities competent to trigger the request for a (presumed) victim to remain on the territory of your Member State. Please indicate if the organisations / authorities differ between cases of presumed and identified third-country national victims of trafficking in human beings.

In the case of formally identified victims, the application for the recovery and reflection period shall be submitted by the competent authority for identification (the identification of the victim shall be carried out by police authorities with specific training in the investigation of trafficking in human beings and in the identification of its victims) with the agreement of the victim, through the National Police Alien Units to the Government Delegations.

Third-country national victims of trafficking in human beings cannot submit a request for a reflection period themselves.

Spain does not provide for a reflection period also for presumed third-country national victims of trafficking in human beings.

The recovery and reflection period lasts for a minimum of 90 days and is only applicable to formally identified victims.

The (presumed) third-country national victims of trafficking in human beings are expected to cooperate with the authorities during the reflection period.

Type of residence permit(s) available specifically for (presumed) victims of trafficking in human beings.

Residence permits are only issued for formally identified victims and are of two types, either for cooperation in the investigation or on the basis of the personal circumstances of the victims. In both cases with a duration of 5 years.

The authority with which the victim of trafficking in human beings is collaborating within the framework of the investigation of the offence or the criminal proceedings, may propose to the competent Government Delegate or Subdelegate, through the corresponding Alien Unit of the National Police, the exemption of its responsibility in relation to the infringement of article 53.1.a) of Organic Law 4/2000, of 11 January. Without prejudice to the foregoing, and taking into account the personal situation of the victim, the Government Delegate or Subdelegate may determine exemption from responsibility ex officio.

Once the exemption from responsibility has been determined, where appropriate, the foreigner shall be informed of the possibility of submitting an application for authorisation of residence and work due to exceptional circumstances, addressed to the head of the State Secretariat for Security or to the State Secretariat for Immigration and Emigration, depending on whether the motivation lies, respectively, on the victim's collaboration in the investigation of the crime or on his or her personal situation.

The application for authorisation, which shall be submitted to the Government Delegation or Subdelegation that has determined the exemption from responsibility, may be submitted by the foreigner personally or through a representative.

Other protection status(es) and national programme(s) offered to protect (presumed) third-country national victims of trafficking in human beings.

The 2011 Framework protocol is fundamental to understand the specific operations expected in the identification process.

Accordingly, once the victims have been formally identified by the State Security Forces, the report is sent to the Government Delegation/Sub-Delegation, who will issue a resolution on the Restoration and Recovery Period within 24 to 48 hours. This period will have a term of 90 days, which may be extended without a maximum.

During this period, the potential victim is granted certain rights:

- Exemption of liability
- Suspension of sanction proceedings
- Authorisation to stay
- The authorities must ensure their subsistence, safety and protection
- This also includes their minor children or children with disabilities who are in Spain

It is a period in which the victim decides whether or not to cooperate with the authorities in the prosecution of the crime.

- If they collaborate: Residence and work authorisation due to exceptional circumstances based on collaboration with the authorities
- If they do not cooperate: Residence and work authorisation due to exceptional circumstances based on their personal situation (competence of the Ministry of Inclusion, SS and Migration)

Section 4: International cooperation between Member States and with third countries in addressing detection, identification and protection of (presumed) third-country national victims of trafficking in human beings

Cooperation within the scope of the Dublin III Regulation: cases of (presumed) third-country national victims of trafficking in human beings that fall under the Dublin III Regulation

Alleged victims are not treated differently unless they are identified and recognised victims in Spain.

Alleged victims are referred to the competent national authority for identification and recognition. If they are not interested in cooperating with the police, they will also be entitled to rights such as appropriate assistance in a specialised centre.

National policy and practice regarding Dublin transfers of (presumed) third country national victims of trafficking in human beings

Transfer of presumed victims will not take place if there is a trafficking-related risk in the destination country.

Identified victims will not be transferred during recognition period and after a related residence permit is granted, in application of art. 17 Dublin III Regulation.

Identification and referral take place during the Dublin Procedure

Identification and referral procedures take place at an earlier stage in the international protection procedure, not during the Dublin Procedure.

presumed third country national victims of trafficking in human beings are identified during the Dublin procedure entitled to a reflection period.

They could be offered a reflection period by the national competent authority (law enforcement)

Other intra-EU cooperation mechanisms are in place regarding detection, identification and protection of (presumed) third-country national victims of trafficking in human beings.

Spain has continued participating actively in the European Multidisciplinary Platform against Criminal Threats (EMPACT Project) where all the member States of the European Union are involved to a greater or lesser extent and where THB is one of the priorities in the fight against organized crime and serious crimes in the EU. Spain is co-leader of this priority and assumes the leading role in two operational actions, as well as the position of co-leader in other actions such as:

- Combating THB from third countries other than Nigeria and China.
- Combating document falsification related to THB.
- Developing, coordinating and promoting the EMPACT Action Days against trafficking in children and against labour exploitation in the agricultural sector.
- Addressing the use of the internet and the dark web as a facilitator to commit crimes of THB.
- Spain has also continued to actively participate in the Subprojects “ETUTU” (Nigeria) and “China” which have been improving knowledge about the phenomenon of THB and the relations with the countries of origin.
- Apart from the above, we would like to underscore:
- Joint Analysis teams with Romania and Morocco to improve information and intelligence exchange as regards organized crime.
- Using the network of counsellors and attachés of the Ministry of the Interior to facilitate bilateral contacts with priority countries of origin of the victims.
- Developing joint investigation teams at the level of Europol and Eurojust.
- Joint operational actions with Romania and Portugal to optimize the results in labour and sexual inspections.

Spain, through the National Rapporteur against Trafficking in Human Beings (Head of Cabinet of the Secretary of State for Security) and its focal point (Intelligence Centre against Terrorism and Organised Crime, CITCO) participates in the European Network of National Rapporteurs or Equivalent Mechanisms co-ordinated by the European Antitrafficking Coordinator. This forum serves for the exchange of knowledge and best practices in the fight against trafficking as well as in the assistance and protection of victims.

Cooperation mechanisms with third countries in place regarding detection, identification, and protection of (presumed) third-country national victims of trafficking in human beings

Apart what has been said in the previous question, in March 2019 a Nigerian liaison judge/prosecutor was appointed to carry out their functions in Spain. His task is promoting mutual legal assistance between the Central Authority of Nigeria and the Spanish prosecutors specialized in THB. This involves visits to the two countries, where the prosecutor coordinates and follows the requests from Spanish colleagues and vice versa in Spain if there are requests from Nigeria. This facilitates the requests of mutual legal assistance between the two countries.

More specifically, his tasks include:

- Activating a direct communication channel between the national central authorities;
- Sending files about cases of organized crime from one country to the other and request immediate follow-up by the corresponding central authority;
- Monitoring the formal requests of mutual legal assistance, the Prosecutor General's Office requests and the extradition requests presented through the corresponding channels;
- Providing legal and practical guidance to the authorities of the country of deployment and in Nigeria about the legal and procedural requirements to facilitate the adequate drafting and response to the mutual legal assistance or extradition requests;
- Keeping contact with the Spanish and Nigerian Ministries of Justice, prosecutors and Police Forces in the execution of letters rogatory. These cases are usually serious cases of transnational organized crime. The liaison judge can be queried when these requests are prepared so that the State addressed can understand them easily. The liaison judge is also available to counsel on what can be included in the request, the best way to request evidence/necessary information, to make sure that enough data and background information are included to help the executing authorities;
- Working with the Spanish Police Forces (National Police and Guardia Civil) on the best way to channel informal/police assistance to the Police. Nigeria, for example, has several law enforcement agencies, apart from the Federal Police, that have jurisdiction based on the type of crime and matter. This is especially relevant when parallel investigations must be conducted in Spain and Nigeria;
- Receive and send anticipated copies of letters requesting execution before sending the original copies through diplomatic channels.

The Unit of Immigration of the Prosecutor General's Office was created as a hub to channel this collaboration with the Liaison Judge, in constant contact and holding regular meetings in its headquarters. At these meetings, specialized groups of the Guardia Civil and the Policía Nacional, prosecutors, members of the General Council of the Judiciary and representatives of the Ministry of Foreign Affairs participated. The meetings have generated important results such as the handing over of a Nigerian citizen to the Spanish authorities for a crime of trafficking in human beings for the purposes of sexual exploitation who had an international arrest warrant, or the sending of testimonies of Spanish cases to the competent Nigerian authorities so that their citizens are prosecuted in Nigeria for the crime of trafficking in human beings.

Section 5: Key challenges and good practices in Member States, including in light of the COVID-19 pandemic.

Key challenges faced in the i) detection, ii) identification and iii) protection of (presumed) third-country national victims of trafficking in human beings

As challenges, at a general level, we could consider:

- Detection and identification of victims in migration flows.
- Addressing the digital business model as the digital space is used in the recruitment and exploitation of victims.
- Early detection and support for migrants. More complex problem due to the massive arrivals of migrants (especially in the Canary Islands). Crime closely related to migration.
- Reduced demand for services related to the sex industry. Regulation of prostitution.
- Strengthening programmes for integration: Potential victims of human trafficking in Spain come from contexts of economic vulnerability, some have no economic problems and yet come from contexts of emotional vulnerability, especially if they are adolescents. They live in precarious employment contexts in which a false job offer is a very easy strategy to use to attract victims.
- Ensuring assistance, support and protection for victims remains a challenge.
- Training and awareness through campaigns. The fact that there is human trafficking implies that we have internalised and normalised certain discourses that perpetuate human trafficking, so the more prevention actions we undertake and the more we know and publicise this reality, the more the notions of justice and dignity that make us normalise human trafficking will change and reduce the problem.
- Promote increased international cooperation.
- Strengthen women's empowerment programmes.
- Increased labour inspections.
- Increase in individualized measures/assistance according to type and gender.
- Work for the restitution of these victims by creating more specific programmes for their job orientation that trigger a real insertion.
- Maintain psychological supports or other supports as these types of victims continue to need assistance over the long term.
- There is a lack of resources for a proactive detection, small amount of victims detected within migration flows.
- In relation to asylum procedures, the detection and identification are hard to set in motion, as they consist of several indicators that are quite broad and can affect many applicants, but a more restricted interpretation of these indicator could be less effective in detection.

Specific challenges at any of the above stages concerning vulnerable persons or asylum applicants

We use a set of indicators to detect persons who can be victims of trafficking. These indicators are related to the itinerary, gender, debts, and several more. The increasing amount of people who apply for asylum and the poor condition they suffer to arrive to Europe produce a situation in which there are many applicants that can be identified as potential victims.

Specific challenges with regard to traffickers / criminal organisations involved in trafficking in human beings using asylum procedures for means other than intended (for example, to temporarily house victims in a reception centre before moving them to the intended country).

A noteworthy phenomenon during this period has also been the large influx of small boats arriving in the Canary Islands. We highlight this fact because it has been a very important migratory phenomenon, since from 1 January 2021 to 10 August 2021, 7,678 people were dealt with in the different islands (44.86% in Las Palmas de Gran Canaria). A priori, being a profile mostly of men (6,353 men out of the total of 7,678 people), the cases of indications of trafficking were very occasional but a change in this trend was perceived at the end of the second semester of 2021.

Indications were discovered of transfers of women from the Canary Islands, and their subsequent abandonment of the reception facility assigned to them on the mainland within a few days, leading to the conclusion that it was not a migration process as such, but rather that there were hidden trafficking networks, and that once on the mainland they wanted to take charge of their goods.

In view of this situation, four major measures were taken by the General Directorate of Humanitarian Assistance and International Protection Programmes, which were as follows:

- Detection of possible victims of human trafficking in the CGCs by specialised professionals, prior to the transfer of single women from the Canary Islands to the mainland. Purpose: Detection of possible cases for more appropriate management.
- Set up specific centres for trafficking in the Canary Islands and expand the centres for women.
- As an awareness-raising mechanism, inclusion in the minimum information to be provided according to the Information Provision Protocol.
- Massive training for the detection of possible cases of trafficking to the entities that manage the system's facilities in the Canary Islands, as well as to their service providers.

Consequences of COVID-19 pandemic on the detection, identification, and protection of (presumed) victims

The previous period was marked by the health crisis caused by COVID-19 and the resulting restrictive measures. This fact led to a significant reduction in the detection of possible victims of human trafficking (THB), mainly due to the restriction of flights and border closures, which resulted in a significant reduction in the arrival of women asylum seekers (THB). So much so that the statistical information for the second semester of 2020 showed a total of 315 cases of detection of THB, when the average for each six-month period had been around 1,000 cases detected.

The COVID-19 pandemic has deepened the invisibility of human trafficking and exploitation, with the resulting difficulty in detecting and investigating it.

- A decrease in the number of THB victims.
- An exponential increase in the use of social networks and the internet to recruit victims and facilitate their exploitation.
- The vulnerability of victims has been exacerbated by the closure or limitation of economic activity.
- Online exploitation, especially in the area of pornography, has increased significantly

New patterns and / or trends in trafficking in human beings have emerged because of the COVID-19 pandemic

- The health crisis has opened the way to new scenarios for their perpetration and situations of extreme vulnerability. The criminal industry reinvents itself, proliferating Sexual Exploitation by digital means (sexual webcams, etc.), circumventing lockdown and other restrictions.

- A rise in THB for the purpose of labour exploitation in the sectors of agriculture, construction and domestic work.
- The use of social networks has been detected, seeking profiles of single.
- 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.

Policies and procedures adopted due to the challenges of the COVID-19 pandemic

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 "Preliminary 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.

Concrete plans or proposals in place for improvements

National Strategic Plan against Trafficking in Human Beings (PENTRA)

In its capacity as Focal Point of the National Rapporteur against Trafficking in Human Beings, Intelligence Centre against Terrorism and Organised Crime (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:

- Detection and prevention of trafficking in human beings.
- Identification, referral, protection, aid and recovery of victims of human trafficking.
- Prosecution of the crime.
- Cooperation and coordination.
- 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.
- National Action Plan against Forced Labour

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. 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.

Good practices in relation to i) detection, ii) identification and iii) protection of (presumed) third-country national victims of trafficking in human beings

Instruction 6/2016, of the State Secretariat for Security on the actions of the state law enforcements agencies in combatting human trafficking and on collaborating with organisations and bodies with accredited experience in care for victims.

On the basis of periodic meetings between the National Rapporteur and civil society organisations, it was decided to consider systematising their involvement, in collaboration with State Law Enforcement Agencies, in detecting and identifying the victims of human trafficking.

As a result, on 15 June 2016 the Secretary of State for Security issued Instruction 6/2016 to enhance cooperation with non-governmental organisations and members of civil society in fighting human trafficking. Thus the Ministry of the Interior has enabled the National Police and the Civil Guard to establish the figure of the Social Interlocutor in human trafficking, aimed not just to provide a new tool for preventing and fighting this type of crime, but also to bolster coordination of the actions of the State Law Enforcement Agencies with the bodies and social entities concerned with protecting persons who suffer from this execrable crime.

The State Secretariat’s Instruction provides for the creation of two sorts of Social Interlocutors in the Fight against human trafficking, one acting nationally and others operating at the territorial level. While the former has the specific missions for cooperation and coordination with the Territorial Social Interlocutors, the latter are responsible for the coordination, cooperation and implementation of actions related to crimes linked to human trafficking in their territorial sphere. Moreover, these experts are entrusted with maintaining permanent contacts with organisations and bodies with accredited experience in the care of victims of trafficking. The aim of these contacts is to promote collaboration, guarantee reciprocal exchange

of information, trends and statistics, and to foster the coordination protocols that prove necessary in caring for victims, and specialised police backup in the field.

According to the Instruction, when a Social Interlocutor – or if applicable the units of the State Law Enforcement Agencies with the authority to identify the victim and then investigate the facts – is advised that the specialised bodies have detected a potential victim they will, using the quickest and most effective means, ask for the information those bodies have, and which will be taken into account in identifying the victim.

Likewise, whenever these specialised entities have relevant information on a potential victim, they will make it known to the State Law Enforcement Agencies through the channels established with the relevant Social Interlocutor, using the quickest and most effective means for that information to be assessed in identifying the victim and for other protective actions.

The Instruction sets out the procedures for detecting and identifying victims as provided for in the 28 October 2011 Framework Protocol for the Protection of Victims of Human Trafficking. Thus, it indicates that, from the very moment at which it may be considered that there are reasonable indications to believe that someone is a victim of trafficking, the police units will take the necessary measures designed to guarantee the protection of their rights, medical and social assistance, and the necessary legal support.

It also provides for victims to be identified as provided for in the Spanish legislation, by police units with specific training in preventing and combatting trafficking, and in identifying and assisting them. The State Law Enforcement Agencies will nonetheless contact the specialised organisations to enable them, once a possible victim has been found, to participate in the early identification and subsequent identification interview, thereby creating a formal space for the involvement of civil society in processes to identify victims of human trafficking and ensure them greater protection and assistance.

To monitor and evaluate implementation of this Instruction, the National Rapporteur deals periodically with the matter at meetings held with the Spanish Network to combat Human Trafficking. Similarly, meetings have been organised with the Social Interlocutors analysing the advances, difficulties and future challenges for the Instruction's effective application.

The State Law Enforcement Agencies (Policía Nacional and Guardia Civil) have issued their own internal rules for the correct implementation, monitoring and evaluation of the results of this Instruction.

The Instruction gives a formal role to NGOs in the identification process and also improves the channels for information exchange between police forces and civil society.

In asylum procedure in borders, we use a doble detection system: when an applicant can be identified as potential victim of trafficking, both specialised police officers and specialized civil organizations are convened so the risk is evaluated in two ways. If one of these entities determines that the applicant is in potential risk, he/she is admitted to specific shelters.