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2021 Trafficking in Persons Report: Spain

SPAIN: Tier 1

The Government of Spain fully meets the minimum standards for the elimination of trafficking. The government continued to demonstrate serious and sustained efforts during the reporting period, considering the impact of the COVID-19 pandemic on its anti-trafficking capacity; therefore Spain remained on Tier 1. These efforts included assisting more trafficking victims, opening a new trafficking shelter, increasing efforts and results regarding international investigations, and continuing to issue significant prison terms for convicted traffickers. Although the government meets the minimum standards, investigations, prosecutions, and convictions decreased; and, notably, the government did not prosecute any alleged labor traffickers. Gaps remained in victim identification protocols and resulted in the government identifying fewer victims. Additionally, the government continued to lack a national anti-trafficking action plan to guide its efforts.

PRIORITIZED RECOMMENDATIONS:

Increase investigations, prosecutions, and convictions of trafficking offenses, particularly for forced labor. • Increase training of front-line officials on proactive victim identification, in particular among vulnerable populations such as irregular migrants, unaccompanied minors, and workers in industries and agricultural regions with high incidences of labor exploitation. • Adopt and implement one comprehensive national action plan that addresses both sex and labor trafficking and clearly outlines the roles of law enforcement and victim care providers. • Increase worker protections by implementing strong regulation and oversight of recruitment companies that are consistently enforced, including prosecuting fraudulent labor recruitment. • Allow formal victim identification without requiring law enforcement interaction. • Allow formal victim identification by and referral from entities other than the police, including by labor inspectors, asylum case workers, healthcare professionals, social workers, and NGOs. • Expand victim service centers to all autonomous communities. • Continue to increase witness protection resources available to victims and expert witnesses, including increasing safety and security measures and considering measures to protect their identities. • Increase resources, including personnel, to the office of the national rapporteur and consider making it independent. • Increase protection and security of unaccompanied migrant children from traffickers operating in immigration detention centers. • Train all prosecutors and judges on human trafficking and a victim-centered approach to law enforcement. • Improve state compensation mechanisms, including re-distribution of confiscated traffickers' assets to victims.

PROSECUTION

The government decreased law enforcement efforts. Article 177 bis of the criminal code criminalized sex trafficking and labor trafficking, prescribing penalties from five to eight years' imprisonment, which were sufficiently stringent and, with respect to sex trafficking, commensurate with those for other serious crimes, such as kidnapping. The rapporteur, NGOs, and GRETA reported the penal code did not clearly define forced labor, which made prosecutions difficult; the government had a draft stand-alone trafficking law to address forced labor, among other issues, but did not pass the law during the reporting period. Law enforcement officials adapted to pandemic-related restrictions by holding meetings virtually, though many victim and suspect interviews were postponed and courts shut down for six weeks. According to provisional data for 2020, law enforcement initiated 83 new human trafficking investigations (62 sex trafficking, 19 labor trafficking, and two forced criminality), a decrease compared with 103 (82 sex trafficking, 16 labor trafficking, two forced criminality, and three forced begging) in 2019. In addition to law enforcement investigations, the Office of the Prosecutor initiated 119 new investigations of 530 suspects, compared with 167 investigations of 637 suspects in 2019. From the investigations, law enforcement arrested 235 suspects in 2020 (173 for sex trafficking, 56 for labor trafficking, and six for forced criminality), compared with 285 suspects in 2019. Law enforcement conducted targeted operations against 66 criminal organizations involved in human trafficking and exploitation in 2020, a significant increase compared with 11 in 2019. The judiciary initiated prosecutions of 52 suspects – all for sex trafficking – a significant decrease compared with 127 in 2019 (117 for sex trafficking and 10 for labor trafficking). Prioritization of prosecuting labor trafficking offences remained a challenge, and there were no labor trafficking prosecutions in 2020. In 2020, courts convicted 32 traffickers for sex trafficking, compared with 44 convictions in 2019 (37 for sex trafficking, four for labor trafficking, and three for forced criminality). Of the convicted traffickers, 29 were Nigerian, two were Spanish, and one was Moldovan. Sentences

were significant; all sentences were more than one year, with the longest being 35 years and 6 months’ imprisonment; all cases except one included significant restitution for victims. Courts imposed separate sentences on multiple criminal offenses.

The Interior Ministry coordinated law enforcement efforts to combat trafficking and had specialized law enforcement units to address human trafficking. The government adapted to pandemic-related restrictions by switching to virtual platforms to continue providing training to an unknown number of officials in 2020. The prosecutor’s office provided training on detection of trafficking, focusing on labor trafficking and a victim-centered approach, to an unknown number of officials. Compared with 2019, authorities increased cooperation on international law enforcement investigations, including with INTERPOL, Lithuania, Switzerland, Czech Republic, Italy, Nigeria, Austria, Colombia, and Romania; cooperation resulted in the identification of at least 85 victims, the arrest of at least 113 suspected traffickers, and the conviction of seven traffickers in 2020. The government did not have judges or courts that specialized in trafficking, but with regard to sex trafficking, cases could be heard in courts dedicated to crimes related to gender-based violence. Experts concluded, however, that judges often lacked adequate training on human trafficking cases and had limited access to specialized trafficking training. Coordination between law enforcement, NGOs, and specialized trafficking prosecutors continued to be effective, though this varied by region. Several government entities adopted plans to help protect victims during the mandatory home confinement periods caused by the pandemic; this included a working group established by the prosecutor’s office, which met weekly and included police and specialized NGOs. In January 2021, the prosecutor’s office also established a new police liaison position to increase coordination with police, closely monitor human trafficking cases, and increase convictions, especially considering the additional investigative obstacles created by the pandemic. The government did not report any new investigations, prosecutions, or convictions of government officials complicit in trafficking offenses.

PROTECTION

The government maintained mixed protection efforts – while victim identification decreased, victim assistance increased. In 2020, the three-month, pandemic-related national shutdown made identifying sex trafficking victims particularly difficult as the majority of inspections were traditionally conducted in clubs, all of which were closed during much of the year. Law enforcement continued efforts to identify trafficking victims during the reporting period, but gaps remained, and the government did not report identifying any child or Spanish national victims in 2020. In 2020, authorities reported identifying 226 victims (130 of sex trafficking, 89 of labor trafficking, and seven of forced criminality). This was a significant decrease compared with 467 victims (250 of sex trafficking, 173 of labor trafficking, 24 of forced criminality, and 20 of forced begging) identified in 2019, but similar to the 225 identified in 2018. In 2020, victims predominantly came from Colombia, Venezuela, Romania, Honduras, Nicaragua, and China. Law enforcement officials were the sole entity that could identify victims, and the government reported that formal victim identification was not tied to law enforcement cooperation. However, in its 2018 report, GRETA stated that law enforcement could only formally identify victims who cooperated in criminal investigations. Victims identified by NGOs or other entities outside of law enforcement, were not included in national statistics; according to NGOs, this, coupled with continued gaps in victim identification among irregular migrants and asylum seekers, resulted in probable underreported official victim statistics. However, victims who chose not to cooperate with law enforcement had the same rights and access to victim assistance. Experts asserted that 90 percent of women in commercial sex in Spain could be unidentified sex trafficking victims within the decriminalized commercial sex industry, and GRETA concluded victim identification statistics did not reflect the scale of trafficking. The government continued to utilize its national victim identification and referral protocols and usually coordinated formal victim identification with an NGO that would then assume care of the victims. The government lacked systematic victim identification protocols at temporary reception centers for irregular migrants and asylum seekers. The increased number of newly arrived irregular migrants, including 23,000 to the Canary Islands in 2020 (compared with 2,700 in 2019), were vulnerable to trafficking; officials did not identify any trafficking victims from among these numbers, but given the large number of vulnerable individuals, civil society suspected unidentified trafficking victims were among the new arrivals. The government continued to implement victim identification protocols at the Madrid airport and in 2020 added the Barcelona airport, as well, but it did not report how many victims were identified. The government continued to provide training to border police, though victim identification by border police remained low compared with identification by NGOs. Fourteen of the 17 autonomous communities in Spain continued to use their own protocols for trafficking victims, which they implemented simultaneously with the national protocol. The government and government-funded NGOs reported broadly assisting approximately 1,468 victims and 4,661 potential victims in 2020, including job training for at least 148 potential victims and safe housing for at least 98 victims. Additionally, at least 16 victims received witness protection and 129 received legal assistance from government funded NGOs. This compared with government-funded NGO assistance to 638 victims and 4,842 potential victims in 2019.

In 2020, the government allocated €6.5 million (\$7.98 million) to NGOs providing victim assistance, the same amount allocated in 2019. Additionally, in 2020, the autonomous communities and municipalities received €20 million (\$24.5 million) from the central budget for assistance to female sex trafficking victims, the same as 2019. The government, through victim service offices, referred victims to government-funded NGOs, which provided free healthcare, legal assistance, shelter, social welfare benefits, language training, psychological services, and funds for repatriation to victims. However, not all regions and cities had victim service offices; GRETA reported victim services were available in all regions except Castilla La Mancha, La Rioja, and the autonomous cities of Ceuta and Melilla. While receiving assistance in shelters, victims had the freedom to come and go, and foreign victims could receive assistance in returning home, if they wished. The government enacted a pandemic contingency plan in 2020,

which included alternatives to traditionally available accommodation and a daily subsidy; though civil society noted many victims were unable to access this new assistance due to their lack of internet access or a bank account and poorly coordinated accommodation services in some regions. Law enforcement authorities reported increasing assistance to some trafficking victims who had been abandoned by their traffickers during the pandemic, which included providing victims with basic necessities like water and electricity. In 2020, Murcia opened a new shelter for victims of trafficking and sexual exploitation, and Granada began offering online psychological services to sex trafficking victims, targeting rural communities, in response to the pandemic. There were specialized centers for child victims of crime, and seven NGO-run trafficking shelters assisted child victims. GRETA cited NGO reports that unaccompanied migrant children in Ceuta and Melilla were vulnerable to trafficking in immigration detention centers, with reported cases of children disappearing from these centers; however, migration to these regions decreased significantly in 2020. Shelters for male victims remained limited.

Prosecutors were required to seek restitution from defendants during all criminal proceedings unless the victims expressly waived that right; in 2020, all but one of the 19 victims of convicted traffickers received significant restitution from the perpetrators. The crime victim statute provided victims with the right to state compensation, but authorities have not reported awarding any state compensation to date. Assets seized from convicted defendants supported a fund used to fight trafficking and to assist victims; however, victims rarely received these assets as the process remained complicated. NGOs continued to report inconsistent application of victim protections by judges and called for legal reform to better protect witnesses, including permitting video testimony in all cases and increasing measures to protect the identity of NGO expert witnesses, whose testimony could not be anonymous under current law. The government allowed non-EU victims to apply for reflection periods of 90 days, during which they could recover while deciding whether to assist law enforcement; the government reported granting this protection to three trafficking victims in 2020. Foreign victims could request a renewable residence permit for up to five years based on their cooperation with law enforcement, but most usually received a permit for one year, and could apply for permanent residency after that five-year period. The government reported issuing five-year residence permits to three victims, temporary protection assistance to 15 victims, and international protection to 25 victims in 2020. Despite this, civil society reported that the majority of victims decided not to cooperate with law enforcement. In both of its evaluations, GRETA expressed concern that reflection periods for non-EU citizens were contingent upon an application to the immigration police. Citizens of EU member states, however, were not limited to the 90-day reflection period and faced no deadline for claiming social services or cooperating with authorities.

PREVENTION

The government maintained prevention efforts. The national rapporteur was responsible for coordination, analysis, and assessment of efforts across the government and held two coordination meetings with representatives from the government, a formal NGO group, and law enforcement in 2020. Though meetings were still convened, pandemic-related restrictions prevented the national rapporteur from holding its usual quarterly meetings. The rapporteur and government generally included NGOs in proceedings and coordination efforts. Despite the large scope of work, the rapporteur's office had a very limited staff. GRETA criticized the office of the rapporteur's ability to evaluate government efforts due to its prominent inter-ministerial coordination function and asked the government to consider creating a fully independent evaluation body. The government continued to publish data on its law enforcement efforts and victims identified. The government's Delegate Against Gender-based Violence continued to play a central role in coordinating efforts against sex trafficking, including meetings for the Social Forum composed of central and regional government officials and NGO representatives. The government did not have an anti-trafficking national action plan for the reporting period; however, the government reported drafting a 2021-2025 national strategy to combat gender-based violence, including sex trafficking, and a separate national plan for forced labor.

In cooperation with an NGO, the civil guard continued to distribute an unknown number of awareness brochures about indicators of forced trafficking, available in nine languages, at airports and seaports, including the Canary Islands. The civil guard also continued to distribute leaflets to an unknown number of irregular migrants about labor trafficking. The government launched a new campaign in the form of an action guide for sex trafficking victims that provided resources and detailed victims' rights. The Barcelona municipal government distributed awareness brochures with trafficking indicators, translated into eight languages, to service providers and health professionals. The Spanish police supported a hotline that operated 24/7 and could be used for all crimes, including for reporting suspected trafficking cases; in 2019, the most current year data was available, the hotline received 2,349 communications, resulting in the identification of 387 victims of trafficking and exploitation and the arrest of 1,039 suspects. Irregular migrants and asylum seekers remained vulnerable during the reporting period. Approximately 41,900 irregular migrants arrived in Spain in 2020, of which 23,000 arrived at the Canary Islands. Upon migrants' arrival, the government screened for trafficking victims in temporary reception centers, but the centers were overcrowded and GRETA concluded there was no systematic victim identification protocol. An NGO identified 51 trafficking victims who applied for asylum, but the government did not report how many victims were granted asylum. Fraudulent labor recruitment remained a significant concern during the reporting period, especially in agriculture, and may have increased worker vulnerabilities to forced labor. The government did not have robust licensing or accreditation requirements for labor recruiters to operate, other than being subject to inspection and a requirement that "responsible declaration" be made. Though illegal, some labor recruitment companies and intermediaries probably charged recruitment or job placement fees to foreign workers which could increase vulnerability to debt bondage. Additionally, labor officials noted concerns regarding the practice of companies subcontracting or illegally seconding their employees to other companies—all of which may have increased worker vulnerabilities to exploitation. In 2020, Spanish authorities reported conducting 3,298 labor inspections targeting labor exploitation and 1,128 labor inspections targeting sexual exploitation; however, labor inspectors did not have

the authority to identify trafficking victims. Trafficking victims could only be identified through joint inspections between labor inspectors and law enforcement officers, but the government did not report how many trafficking victims were identified as a result of any joint inspections. The government did not report whether any Spanish labor recruitment agencies were investigated or prosecuted for labor trafficking during the reporting period. Labor inspectors did not have the proper authority to inspect private households, despite the large number of domestic and care workers in Spain. The government reported extending an unknown number of expiring work permits for migrant workers who could not return home due to pandemic-related travel restrictions, which allowed them to continue working legally. The government had at least 20 labor attaches at Spanish embassies abroad who reported labor trafficking cases to the government and increased international cooperation with Bolivia, Paraguay, Peru, and Moldova through anti-trafficking training and information exchanges. The government significantly increased efforts to reduce the demand for commercial sex acts through several public awareness campaigns against soliciting commercial sex.

TRAFFICKING PROFILE

As reported over the past five years, human traffickers exploit foreign victims in Spain and to a lesser extent, Spanish victims in Spain and abroad. Labor trafficking is under-identified in Spain. Authorities report the pandemic increased worker vulnerabilities and contributed to the rise in labor trafficking in 2020, especially in Catalonia. Labor traffickers exploit men and women from Eastern Europe, South and East Asia, particularly Pakistan, in the textile, agricultural, construction, industrial, beauty, cannabis, retail, and domestic service sectors. Traffickers from Romania, Spain, Nicaragua, and Honduras often exploit their own family members in labor trafficking. Chinese and Vietnamese mafia groups increasingly exploit Vietnamese victims in labor trafficking in agriculture and on illegal cannabis plantations. Migrant workers from Morocco are vulnerable to labor trafficking on fruit farms and are often misled and fraudulently recruited. Chinese and Nigerian mafia groups commonly work with a local Spanish collaborator. In 2020, the three-month, pandemic-related national shutdown—including home confinement and limited freedom of movement—coupled with the increased use of private residences instead of brothels or clubs, exacerbated vulnerabilities for sex trafficking victims. Civil society reported victims’ debts to their traffickers and subsequently the traffickers’ control over the victim, increased during the pandemic because victims were sometimes unable to work and earn money. Sex traffickers exploit women from Eastern Europe, South America, Central America, Vietnam, the Dominican Republic, China, and Nigeria. Authorities report Venezuelan and Colombian women now make up the largest demographic of sex trafficking victims. Sex traffickers exploit Venezuelan women fleeing the collapsing social and economic conditions at home. Spanish law neither permits nor prohibits prostitution, and NGOs believe the vast majority of individuals in commercial sex in Spain are trafficking victims. Sex traffickers are increasingly using online platforms to recruit, exploit victims, and book apartment rentals to make their illicit operations difficult to track; this was exacerbated by the pandemic. The rising numbers of newly arrived irregular migrants, including 23,000 to the Canary Islands in 2020, are vulnerable to trafficking. Nigerian criminal networks recruit victims in migrant reception centers in Italy for forced prostitution in Spain. Unaccompanied migrant children continue to be vulnerable to sex trafficking and forced begging.

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