



## Spain

- Population : 47.1 million
- GDP per capita (in US Dollars) : 29,767
- Constitutional monarchy
- Human development index (HDI): 0.876 (26<sup>th</sup> rank among 187 countries)
- Gender inequality index (GII): 0.095 (16<sup>th</sup> rank among 147 countries)
- Corruption Perceptions Index (CPI): Score of 58 on a scale from 0 (highly corrupt) to 100 (very clean)
- Member of the European Union since 1986.
  
- No official national statistics on prostitution.
- Unofficial estimation: between 300,000 and 400,000 prostituted persons. More than 90% are victims of human trafficking according to the State Safety Force.
- Third greatest consumer of prostitution in the world after Thailand and Puerto Rico. Prostitution in Spain yields about 5,41 million US\$ (5 million €) a day (*Eurostat*) and there are about 45,000 prostitution locations (*Centro de Inteligencia contra el Crimen Organizado-CICO*).
- Without being explicitly forbidden, prostitution is unregulated. Since July 1<sup>st</sup> 2015, Article 187 of the New Penal Code has provided harsher penalties to punish procuring. The purchase of sexual services and soliciting is punished as a public order disturbance by the Spanish Legal System (Citizen Security Act of 2015, Section 37.5 of the Penal Code).
- Section 177 of the Penal Code punishes trafficking with five to eight years of imprisonment or more if there are aggravating circumstances.
- In 2014, out of 98 suspects charged with sex trafficking, 60 were convicted (compared to 104 suspects in 2013 and 31 convictions). There was a breakdown of a Nigerian network whose leader was sentenced to 53 years and 9 months in prison and 18 other members of the criminal group were sentenced to terms ranging from six months to 12 years.
- Increase in sexual exploitation on the French-Spanish border.
- Country of transit and destination for victims of trafficking for sexual exploitation.
- Foreign victims are mostly from Eastern Europe (Bulgaria, Romania, Ukraine, Russian Federation, and Croatia), South America (Paraguay, Brazil, Columbia, and Ecuador), China, and Nigeria.

## **Alarming Statistics in Spain: The Fight Against Trafficking and Sexual Exploitation in Spain**

Spain is country of transit and destination for women in prostitution. According to the State Safety Force probably, more than 90% of them are victims of trafficking. Entry routes for these victims in Spain come from America through Brazil and Paraguay, from Europe through Romania via Italy, France, and Germany, through Russian Federation via Belarus and Ukraine, and from Africa through Nigeria via Senegal, Algeria, and Morocco.

There are no official figures on the number of prostituted persons in Spain. Unofficially, estimates say that there are between 300,000 and 400,000 prostituted persons. José Nieto, the Head of the Spanish National Police's Illegal Immigration Network and False Document Unit (UCRIF – Unidad Contra las Redes de Inmigración Ilegal y Falsedades Documentales), acknowledged that in 2013 more than 16,000 people were identified as potential victims or at risk for prostitution. He believes that most prostituted persons are hidden in enclosed spaces – mostly clubs and apartments. This figure may represent only a third of the reality.

The National Police estimated that there are 1,400 establishments in Spain where prostitution is practiced, not including apartments or other closed locations. However the Center of Intelligence against Organized Crime (CICO) claims that there could actually be as many as 45,000. According to CICO's data, in 2013, 264 women were identified as victims of trafficking and 916 identified as victims of sexual exploitation. The women mostly came from Romania, Paraguay, Brazil, Nigeria, and more recently, China<sup>1</sup>. The average age of identified trafficked victims is 23 to 27 whereas the average age of victims of sexual exploitation is between the ages of 33 and 37. In 2013, the convicted traffickers were mostly Romanian, Spanish, or Nigerian. The convicted sexual exploitation traffickers were mostly Spanish, Chinese, or Romanian.

According to Ignacio Cosidó, the Director General of the National Police, in April 2013, the National Police placed the fight against trafficking on the same level as the fights against terrorism, organized crime, and violence against women. Thus the first phase of the Strategic Plan against Trafficking and Awareness Campaign, “Contra la trata, no hay trato” (Against trafficking, there is not treaty) was established.

Police have set up a free emergency call number 24 hours a day (900 10 50 90) and an email address (trata@policia.es) available to victims and citizens so that they can report a potential victim or anonymously denounce a trafficker. The first phase of the Plan has cost 24.67 million US\$ (22.78 million €) from 2013 to 2015 with over 462 police operations. 1,450 have been arrested and 11,751 victims were recovered during these operations.

The second part of the Strategic Plan began its implementation in February 2015. According to the Interior Minister, Jorge Fernandez Diaz, “*the pressure on clients of prostitution will increase, causing demand to decrease*”. Six new operational groups in the UCRIF of the National Police will be created along with a new group specializing in prosecution on social networks.

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<sup>1</sup> Chinese prostitutes are called “invisible victims” because they are never seen on the streets and practice primarily in apartments.

Throughout 2014, the Department of Health, Social Affairs, and Equality worked to develop a new comprehensive action plan against human trafficking for sexual exploitation. After the first plan of action 2009-2012, the new 2015-2018 plan was approved on September 18<sup>th</sup>, 2015 with a budget of 112.6 million US\$ (104 million €) for four years. The plan consists of 143 measures and is based mainly on human rights, protection, and reparation for victims of trafficking. Approved by the Ministry of Health, Social Services, and Equality, it is based on five main areas: detection and prevention ; identification, protection, and assistance to victims ; improved information gathering ; prosecution of offenses and redistribution of criminal assets ; cooperation and coordination.

In terms of victim protection, several NGOs working with victims demanded a reform of the witness protection law in Spain to ensure the safety and anonymity of witnesses (LO 19/1994 de 23 de diciembre de Protección a Testigos y Peritos en Causas Criminales).

Since 2009, the Prosecutor of the Comunidad de Madrid, through its Victim Protection Service, protects witnesses and other persons at risk and offers all victims a multidisciplinary intervention that facilitates the judicial process. This service is used as an example on the national and international level.

According to the Directive 2012/12/EU from the European Parliament and Council, all victims of trafficking could receive information enabling them get answers on their judicial situation and have access to psychosocial teams.

The Victim Protection Service allows victims to benefit from the assistance and guidance of a psychosocial team throughout their trial. The police or Civil Guard is responsible for their safety at all times. After their testimonies, victims of trafficking can be given a protected witness status.

A special security device (*Guardia Civil*) must be put in place to not only ensure their safety, but also their recovery and reintegration. Since the introduction of this service, very precise evaluations have been conducted on the state of improvement observed by the victims to ensure that their recovery process is as effective as possible.

Special attention must be given to victims who meet difficulties to obtain work and residence permits, particularly for victims from Nigeria. These areas pose as obstacles to their integration into the labor market and the process of personal reconstruction and independence.

Coordinated work between the judiciary and state security forces, NGOs, and other associations in the field is absolutely necessary. This helps prevent re-victimization and promote better healing from psychological damage.

## **The Prostitution Market Flourishes in Spain**

Trafficking, prostitution, and sexual exploitation continue to be growing markets. Women's bodies are bought and sold as merchandise to satisfy the desires of ever-younger clients (usually between the ages of 18 and 35). The use of prostitution is seen simply as another form of entertainment for many young people. The trivialization of this activity is becoming very concerning.

Despite public policy implemented by several cities (Barcelona, Madrid, Seville...) to fight against this phenomenon, the data clearly show that the prostitution market continues to flourish in Spain.

According to Eurostat, sexual exploitation can yield up to 5.41 million US\$ (5 million €) a day in Spain. The National Statistics Institute estimates that in 2013, prostitution was estimated to have made over 3.977 million US\$ (3.672 million €). In 2010, prostitution accounted for 0.35% of Spain's GDP.

According to this study, Spaniards spend 1,657 US\$ (1,530 €) a year, or 138 US\$ (127,5 €) a month on prostitution. Spain is the third largest consumer of prostitution in the world after Thailand and Puerto Rico.

In 2014, the Spanish government studied the possibility of taxing prostitution to increase state revenue. The legalization of prostitution could generate revenues of up to 6.5 billion US\$ (6 billion €) per year (*Carbajo Vasco*, 2014). At this date, a decision on this issue has not yet been made.

### **To Legalize or not Legalize Prostitution in Spain**

Spain is an abolitionist country, but in recent years the ideological trends have been moving towards regulation of prostitution. There has been heated debate about legalization throughout 2014 and 2015. It is a subject upon which neither political parties nor civil society can come to an agreement. The debate entered the political arena in May 2015 when Albert Rivera, the leader of the "Ciudadanos" political party, included this issue in his election platform by directly referencing prostitution and his support for regulationism.

At the legislative level, a new Penal Code has been enforced since July 1<sup>st</sup>, 2015. This includes increased sentences for procuring (article 187 of the new Penal Code).

It established two new circumstances that are now considered to be exploitative situations: when the victim is in a situation of personal or economic vulnerability; when the victim suffers from severe, disproportionate, or abusive circumstances while practicing prostitution.

The new Penal Code makes no provision for penalizing clients of prostitution. However the 2015 Citizen Security Act (*Ley de Seguridad Ciudadana- "Ley Mordaza"*) provides fines of 650-32,493 US\$ (600-30,000 €) for the purchase of sexual services when it occurs in public, near places where there may be children (schools, parks,...) or when it interferes with road safety. In applying this law, the police have begun to arrest some women, even those who have been trafficked, who attract customers in the street by revealing themselves naked. Though this type of obscene exhibition represents a less serious offense, it is punishable by fines of 108-650 US\$ (100-600 €). The decisions made by the authorities show that citizen security and road safety are taking precedence over the defense and protection of victims as well as the penalization of customers responsible for the perpetuation of prostitution. Women, including victims of trafficking, are criminalized and can be heavily punished.

This law passed because of the votes from the Popular Party, despite the opposition from other political parties, most NGOs, and civil society.

### **Law Reform on Human Trafficking**

While political debates on prostitution are virtually nonexistent in Spain, the debate on trafficking has been a heated topic for years since the announcement (and the necessary

transposition) of Directive 2011/36/EU on the prevention and fight against human trafficking. On December 12<sup>th</sup>, 2013, the Congress of Deputies created a sub-Commission within the Commission for Equality to study human trafficking for sexual exploitation. In 2014 and 2015, national and international experts from the political, legal, police, educational, and associative sectors worked with this sub-Commission to create a report containing conclusions and recommendations, finishing the study on June 30<sup>th</sup>, 2015. One of the principal recommendations that the researchers emphasized was the need to adopt an anti-trafficking law to align the existing legislation with the organization at the local level<sup>2</sup>. Since the ratification of the Palermo Protocol six years ago, Spain has enacted many laws to fight against human trafficking. Many organizations have demanded that a law be written on gender and human rights with a corresponding budgetary component.

The qualification for trafficking offenses in 2010 (Article 177bis of the Penal Code) and the reforms in 2009 and 2011, articles 59 and 59bis of the Law on Rights and Freedoms of Foreigners in Spain (LO 4/2000 de 11 de enero sobre Derechos y libertades de los Extranjeros en España-“Ley de Extranjería”) established a period of reflection for allocating work and residence permits to victims of trafficking. Law 8/2015 of July 22, 2015 on the modification of the child welfare system introduced a new reform to Article 59, increasing the reflection period from 30 to 90 days. In 2013 736 victims of trafficking were granted 30 day reflection periods, but only 133 actually agreed to collaborate with the authorities (barely 18%) (*Defensor del Pueblo*, 2013).

This showed that a reform needed to be made and the People’s Defender recommended an extension on the period of reflection to 90 days. It is important to allow victims of trafficking time to recover physically and mentally, and then ask them to cooperate with the authorities. Spanish legislation has several examples of action against human trafficking:

- The Comprehensive Action Plan against Trafficking of 2009-2012,
- The creation of the Social Forum against Human Trafficking,
- The Framework Protocol for the Protection of Victims of Human Trafficking of 2011,
- Order 28/2013 from the Ministry of the Interior, which established the Police Central Brigade against Human Trafficking which coordinates with the judicial, fiscal, and administrative authorities of the country,
- The right to free access to justice for all victims of trafficking, regardless of their economic resources (*Real Decreto Ley 3/2013*),
- The Universal Justice Act of 2014, which transferred jurisdiction to Spanish authorities when a trafficked victim is Spanish or has Spanish residence,
- The Status of Victims of Offenses of 2015, which recognized victims of trafficking as requiring greater legal and social assistance given their vulnerable situation (*Ley 472015 de 27 de abril, del Estatuto de la Víctima del Delito*),
- Law 8/2015 for the Modification of the Protection System for Children and Adolescents, which improved attentiveness for child victims of trafficking and their protection.

The Spanish government considers that these laws and the appointment of a Spanish Rapporteur on trafficking in April 2014 to be in accordance with Directive 2011/36/EU and

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<sup>2</sup> Various regulations of Autonomous Communities and municipalities sanctioned the purchase and practice of prostitution in public places under very different criteria.

that the EU regulations have been fully integrated into Spanish law. The designation of a Rapporteur allows for a better overall use of the data collection system and improves information coordination from various ministerial departments, communities, and civil society.

Although legislative advancements are very important for creating institutional coordination on trafficking, some NGOs believe that these reforms are incomplete or even inadequate. They lack a perspective on human rights and financial and human resources. The subject of prostitution is missing from political debates though the problem is still far from being solved. It is imperative that prostitution and sexual exploitation are again part of the political and social agenda of Spain.

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