

SPAIN (Tier 1)

Spain is a destination and transit country for men, women, and children subjected to forced labor and sex trafficking. Victims originate from Eastern Europe, Latin America, East Asia and sub-Saharan Africa. Men and women reportedly are subjected to forced labor in the domestic service, agriculture, construction, and tourism sectors. According to the government and NGOs, Spanish nationals are also vulnerable to trafficking. Media reports indicate there are between 200,000 and 400,000 women engaged in prostitution in Spain, with over 3,000 entertainment establishments dedicated to prostitution. According to media reports and government officials, approximately 90 percent of those engaged in prostitution in Spain are victims of forced prostitution, controlled by organized networks operating throughout the country. Unaccompanied foreign children in Spain may be vulnerable to sex trafficking and forced begging.

The Government of Spain fully complies with the minimum standards for the elimination of trafficking. During 2010, the government improved its capacity to vigorously prosecute trafficking by enacting an amendment to its criminal code to explicitly criminalize trafficking as distinct from illegal immigration. The government referred some trafficking victims to an NGO for specialized anti-trafficking assistance, an improvement from previous years. The government reported, however, that it referred the majority of potential trafficking victims to a non-specialized government agency for basic care, rather than NGOs for comprehensive care and assistance. A lack of formalized procedures for victim identification continued to result in some victims being penalized for crimes committed as a direct result of being trafficked. The government has not yet developed specialized services for trafficked children and victims of forced labor, despite continued calls by local experts to do so.

Recommendations for Spain: Expand formal partnerships with NGOs to entrust them with the specialized care of trafficking victims to move towards a more holistic, victim-centered approach to trafficking in Spain; consider allowing NGOs in detention centers to locate potential trafficking victims who may have been reluctant to disclose elements of their exploitation to law enforcement; refer potential trafficking victims to NGO specialized care providers and consider lowering the standard for granting victims the reflection period and temporary residency; improve and develop formal procedures to guide front-line responders in the proactive identification and referral of trafficked victims independent of their immediate cooperation with law enforcement; improve outreach to locate more child trafficking victims and victims of forced labor and ensure all potential trafficking victims, including children and men, are provided with access to specialized anti-trafficking services; provide comprehensive data on trafficking specific prosecutions and convictions, and ensure their disaggregation from smuggling and other prostitution offenses; and vigorously prosecute and punish all government officials complicit in trafficking offenses.

Prosecution

The Government of Spain took an important step to improve its anti-trafficking law enforcement efforts in 2010. Spain amended its criminal code to legally distinguish between trafficking and illegal immigration, and explicitly prohibited internal trafficking through Article 177. This article entered into force in December 2010; the government has yet to use this article to secure the conviction of any traffickers in Spain. Article 177 prescribes penalties from five to 10 years' imprisonment; these penalties are sufficiently stringent, and the penalties prescribed for sex trafficking are commensurate with the prescribed penalties for other serious crimes, such as rape. Spain prohibits sexual exploitation through Article 318 and labor exploitation through Articles 313 of its criminal code, and the Organic Law

11/2003. According to preliminary information, the Spanish government prosecuted 202 suspects and convicted 80 possible trafficking offenders in 2010, sentencing them to two to nine years' imprisonment. Weaknesses in the government's data, however, prevent confirming the number of human trafficking cases prosecuted as all offenders were prosecuted under Spain's previous anti-trafficking law, which conflates trafficking with people smuggling. The government, however, provided some individual case data to demonstrate it vigorously prosecuted sex traffickers under Article 318 in 2010. In October 2010, courts convicted and sentenced each of seven trafficking offenders to five to nine years' imprisonment for subjecting women from Brazil to forced prostitution; the traffickers used physical intimidation, debt bondage, violence, and threats to prevent the victims from going to the police. Also, in May 2010, the Supreme Court upheld the conviction of six sex traffickers for subjecting women from Venezuela to forced prostitution in various cities in Spain; sentences ranged from two to four years' imprisonment. Finally, in June 2010, a court in Castellon sentenced a married couple to five years' imprisonment for subjecting Brazilian women to debt bondage and forced prostitution. The government reported it continued its investigation of a March 2009 complicity case in which a law enforcement officer reportedly solicited a bribe from a brothel owner in exchange for ignoring alleged forced prostitution in the brothel. A subsequent investigation revealed the alleged involvement of 15 other suspects, including police, former police, business owners, and lawyers.

Protection

The Spanish government demonstrated some progress in providing concrete protections to some trafficking victims in 2010, an improvement over the previous year. A continued lack of formalized procedures for proactive identification increased the likelihood that unidentified victims were treated like illegal migrants and deported. In 2010, the government issued official instructions to guide implementation of Article 59, approved in December 2009, which established a 30-day reflection period and a legal mechanism for victims to obtain work and residency permits, conditioned on their cooperation with law enforcement investigations and prosecutions. In 2010, the government reported 46 trafficking victims benefitted from the reflection period and it provided temporary residency permits to 37 trafficking victims who were cooperating with law enforcement personnel. Spanish law permitted trafficking victims to remain in Spain beyond the 30-day reflection period only if they agreed to testify against trafficking offenders. Victims who assisted law enforcement officials by testifying in court, received a one-year residency permit, renewable for two years if the victim obtained employment in Spain during his or her first year. Permanent residency was available to victims who had earlier secured a second renewal for a total of at least five years. According to local experts, in practice, the issuance of such permits depended on the level of victims' cooperation and how much useful assistance they were able to provide to authorities. NGOs reported that many victims were interviewed immediately after a law enforcement operation, alongside members of organized crime; these potential victims often do not understand the local language and are thus not inclined to disclose elements of their exploitation. As a result, the potential trafficking victims are subject to penal action, detained, or deported. Furthermore, NGOs report that despite identification reports from authorized, specialized NGOs, confirmed trafficking victims continued to be detained and deported by authorities. Local observers also question whether the lead agency charged with enforcing illegal immigration laws can adequately carry out its responsibility for the identification and protection of trafficking victims in Spain.

The government reported it exercised discretion in referring victims to NGOs for care and assistance, and reported that it referred all potential trafficking victims to the social-sanitary service of the Spanish public administration, rather than to any NGOs providing specialized, victim-centered comprehensive care to victims. A recent report noted that NGO lawyers and other stakeholders with specialized expertise on trafficking provided the most appropriate

assistance to victims. The report further stated that in most cases, victims did not receive adequate information about their rights, even in cases when they decided to cooperate with law enforcement. NGOs continued to report serious concerns with a lack of formal cooperation with the immigration authorities responsible for identification and referral of victims in Spain.

The government reported that it continued to subsidize a network of NGOs providing specialized care and assistance to trafficking victims in 2010. One NGO reported it assisted a total of 94 trafficking victims in 2010, 57 of which were newly identified cases; 30 of these victims were referred by Spanish authorities. In another instance, an NGO reported it provided assistance to 34 trafficking victims in 2010. IOM reported it assisted in the repatriation of 22 victims to their home countries in 2010.

Prevention

The national government, along with regional and local authorities, continued to implement multiple prevention campaigns to raise awareness and discourage demand for prostitution in Spain. All awareness efforts focused on the commercial sexual exploitation of women. In June 2010, in conjunction with UNODC, the Ministry of Equality launched the regional three-week "Blue Heart" campaign to raise awareness about trafficking in relation to sexual exploitation. Further in 2010, the Ministry of Equality sponsored an exhibit in Madrid entitled "Slaves of the 21st Century," portraying the causes and consequences of trafficking. One NGO reported that many of the government's awareness campaigns conflate prostitution with trafficking. The national government continued to implement its National Action Plan for Sexual Exploitation in 2010. A draft action plan on forced labor has yet to be finalized. According to the Spanish military, Spanish troops received trafficking awareness training before they were deployed abroad for international peacekeeping missions.