

[SPAIN] COUNTRY PROGRESS CARD

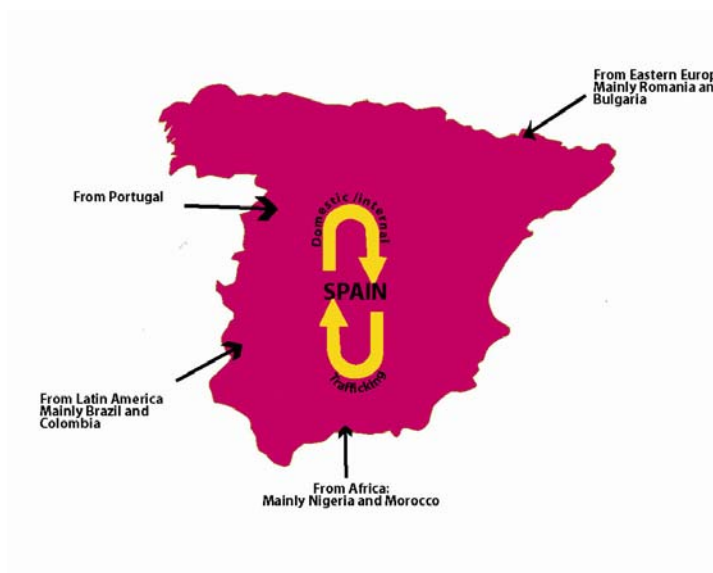


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1. PROGRESS TOWARDS STOPPING SEX TRAFFICKING OF CHILDREN AND YOUNG PEOPLE IN SPAIN

The Stop Sex Trafficking of Children and Young People campaign conducted in partnership between The Body Shop and ECPAT seeks to inspire long-term change to strengthen the protection offered to children and young people and guarantee their rights to be protected from all forms of exploitation, including trafficking for sexual purposes.

Through this campaign, The Body Shop and ECPAT are mobilising the public of countries around the world to engage actively to improve child protection against sex trafficking and join in calling on governments to take action to fulfil three specific goals related to the prevention and protection of children against child sex trafficking and for the care of child victims. The goals identified are deemed crucial for the protection of children everywhere. Progress made by the states towards fulfilling these goals is being assessed through an innovative tool which provides information for each country using a 'Progress Card' that summarises the level of achievement on four specific actions that significantly contributes to realisation of the main goals identified in the campaign.

In many countries around the world, civil society and other actors have made significant contributions in combating child sexual exploitation. However, the protection of children from sex trafficking is primarily a state's responsibility. The information provided in this card describes the situation of child trafficking in Spain and presents the key measures implemented by the government to address the problem. Colour coding is used to differentiate the level of action to combat child sex trafficking taken such as: notable efforts (**GREEN** colour representing adequate specialised policy or services for child victims of trafficking); some progress (**YELLOW** colour usually representing some level of activity to prevent and combat trafficking in persons in general with limited focus on children as a specific target group, or services that are not adequately protecting child victims of trafficking); or a low level of progress (**RED** colour, highlighting inexistent or largely inadequate policy or services for child victims of trafficking).¹ The information presented is followed by relevant recommendations assessed as essential to Stop Sex Trafficking of Children and Young People.

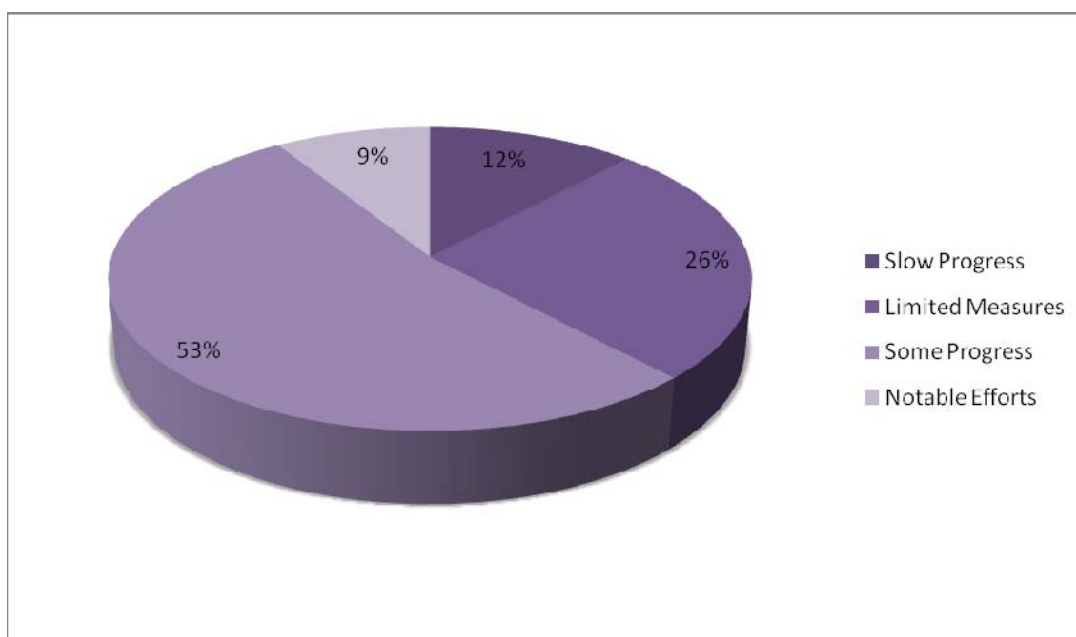
¹ A star indicates the work undertaken by NGOs in the related field.

2. GLOBAL OVERVIEW OF STATES' EFFORTS TO COMBAT CHILD TRAFFICKING

Whilst the progress towards stopping sex trafficking of children and young people is monitored and assessed on a country by country basis against specific indicators², this is contributing to the global call to action addressed to all states of the world to uphold the child's right to protection from all forms of sexual exploitation, as reiterated by over 3,000 participants and 137 States at the World Congress III against the Sexual Exploitation of Children and Adolescents held in late 2008 in Brazil. ECPAT International and The Body Shop are calling globally for all states to ensure more accelerated and concerted action on their existing commitments, by 2012, to prevent and stop child trafficking for sexual purposes.

In order to present a general overview of states' efforts to combat child trafficking, figure one shows the percentage of countries for each of the four categories: 'notable efforts,' 'some progress,' 'limited measures' and 'slow progress.' 'Notable efforts' correspond to adequate measures taken by the state to combat child trafficking. 'Some progress' represents that states have taken measures and initiatives against human trafficking in general but these may not adequately protect child victims of trafficking. 'Limited measures' signifies that there is an inadequate effort by the state to combat human trafficking and little or no efforts to combat child trafficking. 'Slow progress' is for states with minimal or no initiatives against human trafficking or child trafficking. Figure two lists the countries that fall into each of the four categories previously mentioned; they are ranked according to the state's actions for each indicator.

FIGURE 1. GLOBAL OVERVIEW OF STATES' EFFORTS TO COMBAT CHILD TRAFFICKING¹



² More information on the research methodology can be found on page 17.

FIGURE 2. STATES' EFFORTS TO COMBAT CHILD TRAFFICKING³

SLOW PROGRESS	LIMITED MEASURES	SOME PROGRESS	NOTABLE EFFORTS
CAMBODIA MEXICO PAKISTAN MALAYSIA SINGAPORE	CYPRUS GREECE INDONESIA SWEDEN INDIA TURKEY CZECH REPUBLIC HONG KONG RUSSIA USA	BELGIUM NORWAY AUSTRALIA CANADA ESTONIA SPAIN THAILAND SOUTH AFRICA FRANCE ITALY JAPAN NETHERLANDS PHILIPPINES SWITZERLAND AUSTRIA FINLAND GERMANY IRELAND LUXEMBOURG NEW ZEALAND POLAND PORTUGAL SOUTH KOREA	ROMANIA TAIWAN DENMARK UK

³ This publication provides an updated grading and ranking of states' efforts to combat child trafficking as of June 2010.

3. THE SITUATION OF SPAIN

Spain is among the 53% of countries reviewed which have made some progress to stop sex trafficking of children and young people.

Spain has developed some robust policies (National Plans of Action) to tackle the issue of trafficking in human beings, including children. However, further efforts should be made with regard to trafficking prevention strategies (such as awareness-raising programmes) and with regard to the provision of systematic adequate assistance and protection services (with special focus on medical assistance and psychological counseling) for children victims of trafficking.

Child Sex Trafficking in Spain

Depending on the reason for trafficking, some countries may be 'sending' or 'origin' places (from where the child victims originate), 'transit' (where the children might be moved through and temporarily kept on the way to their final destination), and 'receiving' or 'destination' (where the children finally end up). Some countries can be all three. Spain is a transit and destination country for children trafficked for sexual purposes. Spanish children are also trafficked within the country.

Despite the difficulty in accessing the extent and scope of child trafficking Spain (due to lack of data since authorities do not compile statistics specifically on child trafficking), experts believe that it is a worrying problem in the country². Every year in Spain, criminal networks dedicated to the sexual exploitation of children, especially for the prostitution of young girls, are discovered by Spanish authorities. Another purpose for child sex trafficking is for the production of child pornography³. In many cases, thousands of pornographic pictures and videos depicting the sexual abuse of children are found once the authorities track down these criminal gangs⁴. In 2004, the INTERPOL's Group V received more than 215 reports related to child pornography on the Internet⁵. During the period 2002-2006, the National Spanish Police Force "Guardia Civil" detected 2749 cases of child trafficking, of which about 750 were trafficked only for sexual purposes⁶.

Victims are mainly trafficked from Eastern Europe (Romania, Russia, Ukraine), Latin America (Brazil, Colombia, Dominican Republic, Ecuador, Paraguay, Venezuela) and Africa (Nigeria)⁷. In 2003, 323 cases of sexual exploitation were reported to the police, with almost all of them involving children that came from Romania⁸. Reports claim that trafficking of Romanians into Spain has increased since they no longer require visas to enter some of the EU countries⁹. In some cases, children are brought to Spain to transit to other destination countries in Europe¹⁰. Reportedly, NGOs funded by the Spanish Government were able to identify 771 victims of sex trafficking and 133 victims of forced labour trafficking and provided assistance to 1,002 victims in 2008 (there is no mention of how many of the victims were children)¹¹.

The demand for sex drives child sex trafficking globally while poverty, domestic violence and abuse, discrimination and the desire for a better life makes children vulnerable. Like in other countries, children are especially vulnerable to being trafficked because they are often poorly educated, easier to overpower or can

be coerced by an adult. Children may also feel obliged to help support their families or be running away from difficult family situations and may be sold or travel abroad in search of livelihood opportunities. Street children, children in refugee camps, children whose family and community life has been disrupted and do not have someone to look out for them are all especially vulnerable to human trafficking.

Victims of trafficking for the purposes of sexual exploitation in Spain are usually young girls¹² but victims can be both: boys or girls, usually between 14 and 17 years of age, and come from families with socio-economic problems. They often have a negative perception of their chance to achieve something in their country of origin because of their low level of education and the economic difficulties in the area they come from¹³. Children are often approached by persons who gain their trust. In Eastern Europe, Latin America and North Africa, serious political, social and economic crises, civil war, religious or ethnic conflicts, persecution and discrimination against minorities, high unemployment, and high crime rates put children in a vulnerable situation. Traffickers describe life abroad as an easy and pleasant one. Sometimes the girls become emotionally involved with the men that traffic them. The young girls are usually taken to a large town, isolated, beaten, and subjected to severe physical, sexual and emotional abuse¹⁴. In the case of children trafficked from Romania, this is exacerbated for Roma communities who believe their ethnic origin is a social stigma and this 'social inferiority' represents a major obstacle to them finding a job¹⁵. Unaccompanied migrant minors, especially from Romania and Bulgaria, are at very high risk to being trafficked¹⁶.

Traffickers prey on children and young people to meet the sexual demands of people who pay for sex and any person who patronises the commercial sex market may end up sexually exploiting a child. The recruiter is in many cases known to the victim and of the same nationality. In Spain, there is evidence from the child victims identified that the majority of traffickers were family members of the child¹⁷. Usually, traffickers will seek to convince the victim of the economic advantages of working in Spain. In some cases the victims are told some information about the job awaiting them in Spain, but their recruiters lie about the employment conditions. Sometimes recruiters lie about the work that victims will do in Spain, telling them that they will be employed as cleaners in hotels, baby-sitters, etc. In some cases, victims are kidnapped, brought to Spain and forced into prostitution¹⁸. Recruiters provide all that is necessary for the journey to Spain, from documents (such as falsified passports, invitation letters and airline tickets) to money, to ensure that the children are not stopped by the police. All expenses incurred must always be repaid to the member of the organisation who meets the victims on their arrival in Spain, creating a debt that will be used to control and maintain the child in prostitution. Once at the final destination, the children are handed over for exploitation to nightclub owners, sometimes Spanish citizens, or to other Romanians or foreigners living legally or illegally in the country¹⁹.

However, traffickers are not the only ones attracted by the prospects of profiting from the trafficking of children. Employers, such as pimps and the owners of brothels or sweatshops, and various third parties such as recruiters, agents, transporters, 'controllers' and corrupt law and migration officials also make money from the trafficking process. Taxi drivers sometimes collaborate with the rings by transporting victims to their destinations²⁰. In 2008, the Spanish police arrested 403 individual for sex trafficking (68 people for labour trafficking) and prosecuted 135 cases of trafficking with 107 convictions of traffickers, the majority for sex trafficking²¹. Records that show convictions specifically for child trafficking in Spain are as follows: 3 convictions in 2002; 7 convictions in 2003; 3 convictions in 2004; 11 convictions in 2005; 1 conviction in 2006; and 3 convictions in 2007²².

There is no common profile of perpetrators who sexually exploit children – they may be young, old, married or single; they come from all types of socio-economic backgrounds and work in all kinds of professions. Spain is also a source country for tourists seeking sex with children and it has been estimated that between 30,000 and

35,000 Spanish men travel to Central and South America to engage in sex with children²³. Spain is also considered one of the largest hosts of images of child sexual abuse in the European Union²⁴.

CASE STUDIES:

Romanian girl enslaved by trafficking network in Spain

In June 2006, a 16 year old girl from Romania escaped from her captors in Alicante. She told the police that she entered Spain in 2004 as a tourist travelling by bus. A cousin of hers invited her to come to Spain. When she arrived in Valencia, two Romanian men were waiting for her and with the pretext that her cousin was waiting for her in Granada, travelled with her to that city where they finally sold her to other Romanians for 1700 Euros. She was then moved to Madrid where they kept her in an apartment with other girls. She was raped and treated as a commodity, being told by her captors that they could do whatever they wanted with her. The pimps forged her passport so that she appeared to be over 18 years old. A few days later, she was moved under close surveillance to Alicante, to another house with another 8 girls. A man helped her escape and fearing her captors, she went to the police. In 2006 alone, 95 criminal networks exploiting girls and women were disbanded by the policeⁱ.

African girls threatened with voodoo

In Madrid in 2004, the police investigated 17 groups that exploited girls and women. According to Madrid's Provincial Brigade, Spain is an important point for trafficking in humans for sexual exploitation. Nigerian girls, some as young as 17, appear to be the main victims. Their pimps tend to threaten them with physical violence and with harming them and their family with voodoo practicesⁱⁱ. In the majority of the cases, the children have been made to undergo religious rituals before they leave their home country, which may include taking nail clippings, hair cuttings or their blood. These tokens are taken to make a curse. If the child breaks the curse, they are told that they and their families will come to harm, or so the traffickers make them believe. Many of the children strongly believe in the curse and therefore submit to the traffickers' demands.

Dominican girls trafficked to Spain

In 2000, journalists from the newspaper El Mundo and the news channel Antena 3 infiltrated a trafficking network. They uncovered Francisco Antonio Maas (Otti Maas), a Dutchman accused of being the head of a major European-Dominican prostitution operation that trafficked girls, most of them teenagers, to Spain, Italy and other countries. The evidence also led to the arrest of his Dominican partner, Silvino Medina Cuevas, a military officer that was part of the Secret Serviceⁱⁱⁱ.

Sources:

i. Revista Autogestión, 23 de agosto de 2006. "Me vendieron por 1,700 Euros"

iii. "Redes de Prostitución". *El Mundo*. 28 October 2004.

iiii. "Detenido en Santo Domingo el militar implicado en la red de trata de blancas". *El Mundo*. 2 February 2000.

4. DETAILS OF PROGRESS TO COMBAT CHILD SEX TRAFFICKING IN SPAIN

A. Community-Based Prevention Measures on Child Trafficking

Preventing children from falling prey to sex traffickers is the first step that must be taken in the range of comprehensive measures needed to guarantee the protection of children. Prevention encompasses a broad range of multi-dimensional interventions from mobilisation and awareness building among families and the general public to more targeted and specific interventions that reach children at risk and vulnerable due to specific conditions in their lives.

Comprehensive prevention programmes to combat child trafficking have to encompass measures at different levels to address the specific vulnerabilities of children and reinforce the families' abilities to care for and protect their children; to mobilise all stakeholders in the community and at the State level to establish strong protection systems for children, including social welfare and justice systems, but also to target the traffickers and curb the financial profits they are making through these criminal activities.

The adoption of strategies and policies to address the issue of trafficking in children is essential to ensure that measures are developed in an integrated way, based on the national priorities identified and to provide directives for action to the relevant stakeholders involved in the prevention of child trafficking in the country. The adoption of a National Policy also demonstrates the State's commitment to prioritize the issue and allocate efforts and resources to guarantee the rights of the child to be protected from sexual exploitation and trafficking.

Community-based prevention programmes in Spain			
1.1. Provision for prevention programs on child trafficking	1.2. Wide multi-stakeholder collaboration	1.3. Implementation of awareness raising programs	1.4. Provision for teacher training curriculum on CSEC
		★	
The 2 nd NPA against child and adolescent sexual exploitation (2006-2009) and the 1 st NPA against trafficking in human beings for sexual purposes 2009-2011, implemented since January 2009.	The 2009-2011 NPA against trafficking in human beings for sexual purposes includes multi-stakeholder collaboration on combating human trafficking.	The Spanish Government does not implement awareness-raising programmes on child trafficking. However, some sensitization activities on child trafficking are conducted by NGOs and IOGs such as the distribution of flyers and other informational material ²⁵ .	Sensitization and awareness programs on trafficking in persons for sexual purposes in the educative system (both for teachers and students) exist according to Area 1, Objective 3 of the NPA against trafficking of Human beings.

Having a current national policy on child trafficking outlining key community-based prevention measures (*indicator 1.1*) signals a state's prioritization of this specific agenda and provides clear and comprehensive directives for action to the relevant implementing bodies to be transformed into fully resourced and accountable national programs or projects. A collaborative approach in designing and implementing these programs specifically addressing child trafficking (*indicator 1.2*) is essential to ensure a greater relevance and wider reach of the prevention measures and would imply that, at a minimum, partnership is established between two ministerial agencies with at least two other partners (including NGOs, inter-governmental organizations, private sector, children, academia or others). Comprehensive public education and awareness about the existence of child trafficking (*indicator 1.3*) is crucial to engage the public in counteraction and should encompass a multi-media approach using audio-visual products (via various communication channels)

to effectively and sustainably reach the largest possible section of the target population. As school is one of the most direct channels to educate children and inform them of the risks of child trafficking, prevention activities in schools need to be integrated through the systematic capacity-building of teachers as part of their training curriculum (*indicator 1.4*). A policy provision ensures that all new teachers have received all essential information for facilitating the implementation of preventive activities to school children.²⁶

The government of Spain adopted an Action Plan II against the Sexual Exploitation of Children and Adolescents (2006-2009), which includes measures against child trafficking. Furthermore, the Spanish government has just adopted a Comprehensive Plan to Combat Trafficking in Human Beings for the purpose of Sexual Exploitation (2009-2011) which contains measures addressing child trafficking. As part of this plan, a special section is particularly focusing on women and girls.

Relevant ministries (Ministry of Justice, Ministry of Foreign Affairs, Ministry of the Interior, Ministry of equality, Ministry of Labour and Immigration, Ministry of Education, Social policy and Sports, Ministry of Health and Consumer Affairs) are to be responsible for the implementation of the Plan of Action which is monitored and assessed by an Inter-ministerial Coordination Group which receives half-yearly reports from all ministries involved in executing the Plan²⁷.

With regard to multi-stakeholders collaboration on child trafficking prevention, Area 5, Objective 5 of the Comprehensive Plan to Combat Trafficking in Human Beings for the purpose of Sexual Exploitation (2009-2011) states that coordination mechanisms and effective links between competent public administrations and NGOs and other institutions committed to combating human trafficking and caring for victims should be strengthened and more formalized. The Plan foresees the creation of a forum to combat trafficking in order to guarantee the coordination and consistency of actions undertaken by all relevant stakeholders. The forum to combat trafficking was formally created on July 14th 2009. It is constituted by Ministries, institutions and NGO's involved in the National Plan of Action. During its first meeting, a specific working team for issues relevant to combat child trafficking was proposed, but the creation of it is still in process. There is also a Spanish Network against Trafficking in Persons (*Red Española Contra la Trata de Personas*) based in Madrid, and then Autonomic Networks against trafficking in persons.

Several awareness raising initiatives to prevent child trafficking have been implemented NGO's and IOGs such as the ILO (distribution of flyers and other informational material warning against false job offers)²⁸. The Spanish government has not yet developed any awareness-raising campaigns directed at children who might be victims of trafficking or at risk of being trafficked although it is an objective of the Comprehensive Plan to Combat Trafficking in Human Beings for the purpose of Sexual Exploitation to raise awareness throughout society.

According to Area 1, Objective 3 of the Comprehensive Plan to Combat Trafficking in Human Beings for the purpose of Sexual Exploitation (2009-2011) awareness raising programs on trafficking in persons for sexual purposes have also been included within the school curricula and teachers training programmes. However, the Plan does not mention a specific focus on awareness raising-programmes specifically addressing the issue of child trafficking.

CALL TO ACCELERATED ACTION TO PREVENT CHILD TRAFFICKING IN SPAIN

- The government of Spain should urgently develop awareness-raising campaigns directed at children who might be victims of trafficking or at risk of being trafficked.

B. National Legal Framework Harmonisation with International Standards

Strong laws in line with international instruments, together with effective enforcement procedures which are child sensitive, are of crucial importance to protect children from all forms of sexual exploitation including child trafficking for sexual purposes. Progress made towards this goal is assessed through a tripartite framework of international/national standards and their enforcement through a child and gender sensitive process which avoids any possible re-traumatisation or re-victimisation of the child.

International and Regional Conventions/Laws	Date of Ratification – Spain
Convention on the Rights of the Child (CRC)	1990
Optional Protocol on the sale of children, child prostitution and child pornography (to the CRC; Optional Protocol)	2002
The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children	2002
ILO Convention No. 182 on the Worst Child Labour	2001
Council of Europe Convention on Action against Trafficking in Human Beings	2009
Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse	Signed in 2009 but not yet ratified.

Legal Framework in Spain			
2.1. Ratification of the Optional Protocol on the Sale of Children	2.2. Ratification of the Trafficking Protocol	2.3. Harmonization of the national legislation	2.4. Special Police Units to combat crimes against children
Spain has ratified the Optional Protocol in 2002.	Spain has ratified the Trafficking Protocol in 2002.	The Spanish legislation does not provide for a complete and comprehensive definition of the crime of trafficking in human beings in line with the elements of the Trafficking Protocol.	The National Police (Policia Nacional) and the Civil Guardia (Guardia Civil) have a special unit for investigating crimes against children. There are also specific units dedicated to investigate child pornography crimes. However, further specialized training would be necessary to ensure all the agents involved in these units (who may come into contact with children victims of trafficking) are adequately trained to investigate crimes related to child trafficking in a child-sensitive approach.

Once an international convention has been ratified by a state, it becomes a legally-binding instrument for that state. When a state has ratified the Optional Protocol on the sale of children, child prostitution and child pornography (*indicator 2.1*) it is required to fully cover under its criminal or penal law the necessary obligations set forth in the Optional Protocol and to submit within 2 years a comprehensive report detailing its implementation reviewed by the independent UN Committee on the Rights of the Child which publishes its recommendations and suggestions on how to improve the condition of children within the country. Once a state has ratified the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (*indicator 2.2*) it is obliged by its provisions to criminalize all acts related to the trafficking process (*indicator 2.3*). This creates a common ground for counter-trafficking activities among ratifying states and provides an essential international framework to guide national action on the issue. In order to support adequate enforcement of the national legislation, states are obliged to establish special police units with trained officers (*indicator 2.4*) to investigate and prosecute sexual and trafficking crimes against children with a child-sensitive approach which will minimize the traumatic experience of judicial proceedings for the child victim.²⁹

The Government of Spain has ratified most of all relevant international legal instruments related to child trafficking. However, the Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse still needs to be ratified. The Ministry of Justice has indicated that the ratification of the Council of Europe Convention is in process³⁰.

The current Spanish Penal Code does not provide an adequate legal framework for addressing child trafficking. According to Article 318 bis (2) of the Penal Code (modified by the Organic Law 11/2003 – Ley Organica 11/2003), those who encourage, induce or facilitate people trafficking from, in transit through or destined for Spain for the purpose of sexual exploitation are subject to imprisonment for a period of five to ten years. If the victim of trafficking is a child, those who commit the offense are punishable by imprisonment for a term of seven and a half years (Article 318 bis (3)). The same penalty applies to those who commit the offense using violence or coercion. This provision should be reviewed and modified as harsher penalties should apply to offenders who have used violence and coercion against children. Article 318 bis of the Penal Code is not in line with the Trafficking Protocol as its definition of trafficking in human beings does not meet the requirements of the Protocol. Article 318 bis does not criminalize recruitment, transportation, transfer, harbouring and receipt of persons, including children, for the purpose of exploitation.

However, the Congress is currently discussing the 121/000052 bill that modifies the Organic Law 10/95 of the Penal Code (Ley Organica 10/1995, de 23 de noviembre, del Código Penal) and this should be passed as a law soon. This bill reflects the provisions of relevant international and regional standards in relation to trafficking in human beings. In fact, the proposed new bill incorporates a chapter that specifically addresses trafficking in human beings. The definition contained in Article 177 bis - 1 of the bill is fully in line with the Trafficking Protocol as it criminalises recruitment, transportation, transfer, harbouring and receipt of persons, including children, for the purpose of exploitation (forced labour or services, slavery or practices similar to slavery, servitude use in begging, sexual exploitation and removal of organs). The acts referred to above would be deemed to be trafficking in human beings regardless of the use of means such as violence, intimidation or deception (Article 177 bis – 2 of the bill) and regardless of the consent of the victims (Article 177 bis – 3 of the bill). Under this bill, those who commit the offense of trafficking in human beings shall be sentenced to between 5 and 8 years of imprisonment. Under Article 177 bis – 4 of the bill, trafficking in children is an aggravated circumstance of the offense of trafficking in human beings. In this regard, offenders shall be sentenced to 8 years of imprisonment.

The enforcement of the laws and prosecution of offenders is one crucial aspect of the fight against child trafficking. However, investigating and prosecuting crimes against children still pose a number of difficulties in Spain in gathering evidence and testimonies for instance or in identifying victims and ensuring their protection. This is why special police units with trained officers on child-sensitive approaches are particularly essential and required in international standards.

The National Police (Policia Nacional), in charge of policing urban areas, has a special unit for investigating crimes against children (Unidades especializadas en delitos contra menores – GRUME, Units specializing in crimes against minors). This unit investigates cases of mistreatment of children, child sexual abuse and other crimes against minors. La Civil Guardia (Guardia Civil), in charge of policing rural areas, also has a special division to act in case of mistreatment and violence against women and children (Equipos Mujer Menor - EMUMEs). Two other specialized units have also been created to investigate child pornography crimes (BIT - Brigade of Technological Investigation and GDT - Group for Telematics crimes). While these efforts are commendable, further specialized capacity-building efforts would be necessary to ensure all the personnel involved in these units are adequately trained to investigate crimes related to child trafficking in a child-sensitive approach.

The Spanish criminal legislation contains several child-friendly measures to ensure the protection of children victims of trafficking during legal proceeding (e.g. visual confrontation with the accused will be avoided, children should be heard by experts). However it is unclear whether these measures are systematically implemented by law-enforcement agents.

Regarding the prosecution of child trafficking cases, it appears that there is very little existence of case law. According to some research there was only 1 conviction based on child trafficking in 2006 and only 3 convictions in 2007³¹. The clearest factor which hampers the conviction is the lack of legal framework addressing child trafficking within the Penal Code at least until this year (2009). This is not a problem just for children victims, but it is a problem of the misunderstanding of the “Trafficking” concept, and the lack of legal tools to combat it, as in Spain the concept of “trafficking” is still confused with illegal immigration, even within the Penal Code. This should be addressed by the on-going reform of the Penal Code.

CALL TO ACCELERATED ACTION TO ENSURE PROSECUTION OF CHILD TRAFFICKING IN SPAIN

- The Council of Europe Convention on the protection of children against sexual exploitation should be ratified;
- The Spanish government should implement the national training strategy (Area 2 Objective 1 of the Comprehensive Plan to Combat Trafficking in Human Beings for the purpose of Sexual Exploitation - 2009-2011) for law enforcement agents who come into contact with children victims of trafficking or at risk of being trafficked in order to ensure that they are able to adequately identify and/or assist these children.

C. Specialised Support Services for Child Victims of Trafficking

Child victims of trafficking for sexual purposes require specific rights to protection from sexual exploitation which entails receiving appropriate care and assistance to provide for their special needs and requires. States are obligated to take a systematic integrated approach for the delivery of comprehensive and specialised services to restore the rights of the victims and support a long-term and effective recovery.

Children who have been trafficked have suffered a number of abuses and violations of their rights and the State is responsible to provide them with adequate care and protection delivered in the best interest of the child, in respect of the child's specific needs and without any discrimination based on their origin or immigration status.

States parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

-Convention on the Rights of the Child, Art. 39

Specialized services for child victims of trafficking			
3.1. State-established Helpline	3.2. State established Shelters	3.3. Medical Services offered to child victims of trafficking	3.4. Psychological Counseling Services
The Spanish government does not operate any helpline to provide specialized assistance to child victims of trafficking.	Special shelters for trafficked children do not exist in Spain. Children victims of trafficking are placed in a centre for vulnerable children and for children who are particularly at risk.	Identified children victims of trafficking or children at risk to being trafficked can access public medical services. However, although Spanish legislation states that foreign vulnerable children who are in a high-risk situation should enjoy full healthcare as well as other public services (even if they are illegally resident in Spain) in practice, the vulnerable children illegally residing in Spain do not have systematic access to these services.	The psychological counseling services are not sufficiently specialized, even though the 2009-2011 NPA against trafficking in Human beings for sexual purposes aims to improve the service of care and attention for the victims, this has not yet been translated into concrete results.

A state-operated helpline for child victims of trafficking (*indicator 3.1*) accessible by all children at risk or victims of trafficking for free and staffed by trained personnel is essential to provide assistance and facilitate access to other relevant services for child victims of trafficking. Ideally it should be able to operate in the main languages of countries from where the child trafficked victims originate in cases of transnational trafficking and be promoted nationwide. Children's shelters for trafficking victims (*indicator 3.2*) should be separated from adult shelter and provide a place of safety where specialised care and support services can be given in a structured way. Child trafficked victims have suffered various forms of physical and sexual abuse and require specialised support including comprehensive medical services (*indicator 3.3*) freely offered and available to all child victims of trafficking and sustained counseling services (*indicator 3.4*) delivered by trained and experienced professionals to assist the child in the full recovery process.³²

In January and March 2010, the Spanish government implemented the European Commission 'Decision of 15 February 2007 on reserving the national numbering range beginning with 116 for harmonised numbers for harmonised services of social value' by establishing the 116000 helpline for missing children³³ and the 116111 helpline for children to call for assistance³⁴. However, the 116113 helpline aimed at providing emotional support still needs to be implemented.

There are no specialised shelters for children victims of trafficking in Spain although the creation of reception centers providing specific comprehensive care (psychological, medical and legal) for victims of trafficking is included in the Comprehensive Plan to Combat Trafficking in Human Beings for the purpose of Sexual Exploitation. Identified children victims of trafficking are placed in centers for vulnerable children. These centers are mostly administered by the autonomous communities with the collaboration of NGOs³⁵.

Children placed in the centers can access medical assistance and psychological counseling. However, as these services are tailored to respond to victims of violence and sexual abuse, they do not adequately respond to the specific needs of children victims of trafficking. Furthermore, although the Spanish Organic Law on the Legal Protection of Minors (Ley Orgánica 1/1996, de 15 de enero, de Protección Jurídica del Menor) states that foreign minors who are in a high-risk situation or under the care of the competent Spanish public authority, should enjoy full healthcare as well as other public services, even if they are illegally resident in Spain. Despite this legislative progress, in practice vulnerable children illegally residing in Spain cannot systematically access medical assistance services (particularly as many of them try to avoid repatriation). More should be done with regard to the effective implementation of these provisions.

CALL TO ACCELERATED ACTION TO DELIVER ADEQUATE CARE AND SUPPORT TO CHILD VICTIMS OF TRAFFICKING IN SPAIN

- The Government of Spain should urgently establish a specific hotline designed to adequately respond to the needs of children victims of trafficking;
- Specific shelters for children victims of trafficking should be established and equipped to provide adequate assistance and protection services, especially medical assistance and psychological counseling. Adequate assistance and protection measures should be systematically accessible by all children victims of trafficking, including children who are illegally resident in Spain (in accordance with the Spanish Organic Law on the Legal Protection of Minors 1/1996).

5. CAMPAIGN PETITION IN SPAIN

Since the Stop Sex Trafficking of Children and Young People campaign was launched in August 2009, thousands of customers have already demonstrated their commitment in contributing to this social change to secure a safe world for children. Based on the findings from this Spain Progress Card, we are calling for immediate action in Spain to give children and young people the protection that they deserve.

In Spain we call for greater protection of children and young people against child sex trafficking through urgent proactive implementation and enforcement of protective measures.

Specifically we call for:

-The urgent development of awareness-raising campaigns directed at children who might be victims of trafficking or at risk of being trafficked;

-Establishment of a specific hotline designed to adequately respond to the needs of children victims of trafficking;

-Establishment of specific shelters for children victims of trafficking which are equipped to provide children with adequate assistance and protection services, especially medical assistance and psychological counseling. Adequate assistance and protection measures should be systematically accessible by all children victims of trafficking, including children who are illegally resident in Spain (in accordance with the Spanish Organic Law on the Legal Protection of Minors 1/1996).

Note: Whilst the national campaign petition is focusing on the specific needs and priorities for Spain, it is directly contributing to the global ECPAT /The Body Shop call for all states to ensure more accelerated and concerted action on their existing commitments, by 2012, to prevent and stop child trafficking for sexual purposes.

6. RESEARCH METHODOLOGY

This campaign utilises an innovative method to analyse the progress of 42 states' efforts to combat child sex trafficking by tracking three key goals and 4 specific indicators for each goal as the campaign progresses. Data for the Progress Card Booklets was collected through various sources, focusing mainly on ECPAT's experiences in monitoring progress on the implementation of the Agenda for Action against commercial sexual exploitation of children³⁶. Data was also sourced from UN bodies, governmental, non-governmental organisations and other stakeholders involved in anti-trafficking measures. It should be noted that the availability and quality of data in each of the 42 countries included under the monitoring initiative of the campaign is in places uneven. In many countries data on sexual exploitation of children and trafficking are not systematically collected, are localised to project areas rather than having national scope, or fall outside an established management information system and are thus inconsistent. However, every effort to define parameters to minimise differences has been made and ECPAT works with its partners in each of the countries to identify the optimal data sources. Taking these factors into consideration, indicators have been selected on the basis of the following criteria: availability and ease of access to information and level of relevance of the action for achievement of the goal. It is also necessary to note that these indicators are assessing measures directly undertaken or supported by states and do not necessarily reflect the large amount of work undertaken by many NGOs around the world, often in order to compensate for a lack of adequate action on the part of government. The decision to assess only state-supported measures is based on the fundamental principle that, while the protection of children is a shared responsibility of all actors of society, the obligation to guarantee that children can fully enjoy their fundamental rights is borne by the state.

Due to limited data collection and disaggregation of information on child trafficking for sexual purposes, accurate estimates of the number of children affected worldwide are impossible. This booklet thus assesses the country's progress only in relation to certain policies that the government has enacted and not on the basis of estimates of the scale of the problem. As such the ranking does not factor in the extent to which the country is a place of origin, transit or destination for child sex trafficking. The existence of policies to combat child trafficking within any given country is considered to be the first fundamental step to trigger allocation of human and financial resources for concrete action as well as providing a tool for the public to call for accountability. Thus it is judged to be a robust base indicator of progress.

A more in-depth explanation of each of the goals and corresponding indicators is provided in Chapter 3 of the official campaign report, "Their Protection is in Our Hands: The State of Global Child Trafficking for Sexual Purposes."

This booklet was produced by ECPAT International and ECPAT Spain.

7. ENDNOTES

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¹² ENACT. *A Report on Child Trafficking: Bulgaria, Denmark, Italy, Romania, Spain, United Kingdom*. March 2004. Accessed from: http://www.enact.it/view_news.asp?id=198

¹³ ILO-IPEC. *Rapid Assessment of Trafficking in Children for Labour and Sexual Exploitation in Romania*. 2003.

¹⁴ ENACT. *A Report on Child Trafficking: Bulgaria, Denmark, Italy, Romania, Spain, United Kingdom*. March 2004. Accessed from: http://www.enact.it/view_news.asp?id=198

¹⁵ ILO-IPEC. *Rapid Assessment of Trafficking in Children for Labour and Sexual Exploitation in Romania*. 2003.

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- ³² ECPAT International/ The Body Shop. *Their Protection is in our Hands – The State of Global Child Trafficking for Sexual Purposes*. Bangkok, August 2009. Available at: http://www.ecpat.net/EI/Publications/Trafficking/Full_Report_Global_Child_Trafficking_for_Sexual_Purposes.pdf
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