

NATIONAL

ACTION PLAN AGAINST FORCED LABOUR:

Compulsory labour relations
and other forms of forced labour



GOBIERNO
DE ESPAÑA

VICEPRESIDENCIA
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MINISTERIO
DE TRABAJO
Y ECONOMÍA SOCIAL



Organismo Estatal
Inspección de Trabajo
y Seguridad Social

**NATIONAL ACTION PLAN
AGAINST FORCED LABOUR:**
COMPULSORY LABOUR RELATIONS
AND OTHER FORMS
OF FORCED LABOUR

ÍNDICE



Document development by:
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Published by:
Ministerio de Trabajo y Economía Social
Organismo Estatal Inspección de Trabajo y Seguridad Social
Paseo de la Castellana, 63. 28046 - Madrid
e-mail: digitss@mites.gob.es
Internet: <http://www.mites.gob.es/itss/web/index.html>

NIPO Papel: II9-23-001-0
NIPO En Línea: II9-23-002-6
Depósito Legal: M-14493-2023

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I. INTRODUCTION

The International Labour Organisation¹ estimates there are some 24.9 million people trapped in forced labour worldwide, 16 million being exploited in the private sector, including domestic work, industry, construction or agriculture; 4.8 million are victims of sexual exploitation; and a further 4 million of forced labour imposed by the State. No country and no region in the world is free from forced labour.

The effective and sustained suppression of forced or compulsory labour, including forced labour derived from human trafficking, is one of the essential issues of the **Agenda 2030**; explicitly mentioned in **Sustainable Development Goal (SDG) 8** referring to 'decent work', and which mentions the **need to take immediate and effective measures to eradicate forced labour, end modern slavery and human trafficking and eliminate child labour**.

Shortly before the adoption of the Agenda 2030, in June 2014, the International Labour Conference of the ILO, with representatives of governments, employer organisations and trade unions from the 187 member countries of the ILO, had already decided to make renewed efforts to combat forced labour, including human trafficking and practices analogous to modern slavery, by adopting the **Protocol 2014 to the Convention on Forced Labour 1930 (No. 29) of the ILO and Recommendation 203**. In September 2017, **Spain ratified the Protocol**, coming into effect in Spain on September 20th, 2018.

The Protocol, which notes in the Preamble the obligation of ratifying countries to ensure that forced or compulsory labour is subject to criminal penalty and that sanctions imposed by law are truly effective and strictly applied, urges the signatories to adopt a number of different structural measures (legislative and administrative practices, inter-organisational cooperation and coordination, institutional oversight, etc.) for all actions taken for the suppression and prevention of forced labour and the protection, recovery and compensation of the victims, and international cooperation.

¹ Global estimations of forced labour OIT, 2016.

The creation of a **national action policy** against forced labour aims to address these shortcomings and better respond to situations of forced labour in Spain.

These measures should be adopted from a human rights perspective, associating forced labour with a violation of human dignity, and thus focussed on the victims and their needs.

The following section provides a description of the process in the creation of the National Action Plan.

[illegible]

The broad confluence of the phenomenon of forced labour with other criminal conduct have reduced the need for specific policies against forced labour, in the degree to which aspects of this phenomenon are specifically addressed in other areas. However, this situation has also generated a number of shortcomings and deficiencies:

- **Shortcomings:** some specific areas remain uncategorised in law, particularly activities related to modern slavery or servitude, and certain forms of criminal conduct which constitute human trafficking for the purposes of labour.
- **Deficiencies:** failing to address the phenomenon of force labour from an integral, systematic and strategic perspective, inhibits the achievement of one of the essential objectives in the eradication of the phenomenon of forced labour; that is, to adequately identify victims and, consequently, adopt effective measures for their protection and recovery.

2. CONCEPT AND DEFINITION OF FORCED LABOUR AND ASSOCIATED ISSUES

The first difficulty in formulating a coherent plan to combat forced labour is to delimit the **scope of application** since, in Spain, the concept of "labour" from both a legal and social perspective has a different meaning from that outlined in the Convention on forced labour, interpreted by Protocol 2014 and Recommendation No. 203 mentioned above.

The concept of *"forced or compulsory labour"* is defined in Article 2 of Convention 29 of the ILO, as *"all work or service which is exacted from any person under the menace of any penalty and for which said person has not offered themselves voluntarily"*.

This definition includes four different elements which must concur:

1. *"(All) work or service"*: work can be understood as any form of service, employment, activity or productive or useful effort performed in any economic sector, regulated or unregulated, even when this constitutes a criminal activity. The decisive factor is that it is exacted by a third party and provided under their dependence.
2. *"(Exacted) from any person"*: this refers both to adults and minors, to men and women. It is also irrelevant if the person is a national the country where the situation of forced labour takes place, or their administrative situation, legal or illegal, of the migrant worker.
3. *"Menace of any penalty"*: this encompasses a wide range of possible means used to oblige a person to work. This may include the imposition of penal sanctions or the use of various forms of direct or indirect coercion, physical violence, psychological threats, non-payment of a salary, retention of documentation, restrictions on movement, constant surveillance or similar restrictions. The "penalty" may also be the loss of rights or privileges (such as promotion, transfer or access to a new position).

4. **“(Not offered) voluntarily”**: this refers to the lack of consent by the worker, both at the start of the labour relation or the impossibility to freely abandon the activity at any moment. Free and informed consent must be the basis of any labour contract or relation and must persist throughout the labour relation. If the employer or recruiter has deceived, abused, threatened violence or coerced the worker, any consent given by this person is necessarily irrelevant. It is only when consent of the worker is freely given can their activity be considered voluntary.

To sum up, for the ILO, forced labour can encompass legally regulated forms of work, extra-legal activities or even criminal acts, encompassing in its definition any form of labour provided under circumstances of domination or in the absence of freedom of decision as occurs to those subjected to conditions of slavery, servitude or victims of human trafficking. Thus, it is necessary to distinguish between the different realities of forced labour for the purposes of this Action Plan. That is:

- **Compulsory labour relations**: which encompass situations of forced labour taking place within legally regulated forms of labour, that is, with a legitimate purpose duly regulated by labour law.
- **Forced or coerced activities**: which include all extra-legal or illicit activities imposed by a third party in their own benefit or other exploiting person(s).

It should be noted that **coerced labour associated with sexual exploitation and human trafficking for the purposes of sexual exploitation** have been the subject of special attention for many years, as these constitute grave violations of human rights which particularly impact women and girls in Spain.

The particular circumstances of **victims of sexual exploitation and human trafficking for the purposes of sexual exploitation**, given their specific profiles and characteristics make them very different from victims of other forms of exploitation and/or coercion. These differences justify specific action within public policy focussed on the prevention and public awareness of these forms of violence, attending and protecting victims in consideration of basic human rights and gender equality and with particular attention to victims who are minors. Furthermore, the victims of sexual exploitation require specific measures of prevention, detection, prosecution, protection and assistance.

Thus, the National Government, the Autonomous Communities and local authorities, with the participation of specialised organisations, have implemented specific public policies, in line with international obligations and commitments,

to identify possible victims of sexual exploitation, adults and minors, to ensure the protection of their human rights. The aim is to establish a comprehensive assistance program that is accessible and appropriate, along with a consolidated series of mechanisms and services for identification, attention and care for women and girls ensnared in prostitution and human trafficking. Specifically, **two comprehensive action plans have been designed to address human trafficking for sexual exploitation and will be the subject of a Comprehensive Law to Combat Human Trafficking.**

A prior example of this type of action is the Contingency Plan against gender-based violence, providing special assistance measures during the Covid-19 crisis. Assistance to the victims of human trafficking, sexual exploitation and prostitution includes the ability of victims to benefit from the Minimum Basic Income, ensuring them a minimum level of subsistence.

Given these measures, the present Action Plan does not encompass forced or coerced sexual exploitation but focusses on other areas of forced labour which have remained largely unaddressed by public authorities: **forced or compulsory labour not involving sexual exploitation or prostitution.**

For this purposes of this Action Plan, it is essential to distinguish forced labour from other, similar forms of exploitation.

2. 1. DEFINITION OF ISSUES ASSOCIATED WITH FORCED LABOUR

This issue of forced labour reveals some of the shortcomings of our legal system and requires a new conceptual and terminological approach for effective action.

First, a simple fact: **Spanish law does not specifically refer to crimes of slavery, servitude or forced labour** according to the terms of international law, but rather contains a series of categorisations of associated criminal activities. Thus, it is necessary to differentiate between situations of forced labour and other, related crimes which are specified in the penal code:

A. FORCED LABOUR AND LABOUR EXPLOITATION

According to ILO, it is important to distinguish between forced labour, characterised by various **forms of coercion and threats** to retain the person working, and labour

exploitation, understood as labouring under conditions in violation of labour law. Poor working conditions are generally present in the majority of instances of forced labour. However, forced labour implies the loss of personal liberty, either absolutely or in relative terms and thus constitutes a clear violation of human rights.

In practice, there are borderline cases where it is difficult to distinguish between labour exploitation and outright forced labour, although it is necessary to delimit these concepts to establish clear administrative and penal penalties which are both proportional and in line with the legal principles. As with Penal Codes in other countries, it is especially useful to clearly define or identify the concept of labour exploitation.

Forced labour and its consequences should be differentiated and more harshly penalised than labour exploitation given that forced labour does not violate the legitimate legal rights of the working person but is an **egregious violation of the most elemental human rights** (the negation of their dignity and personhood).

According to current Spanish law, violations of socio-labour laws fall into two categories:

- **An administrative infraction**, pursuant to the reformed text of the Law on Social Infractions and Sanctions, approved by Legislative Royal Decree 5/2000, August 4.
- **A penal offence**, described in Book II of Title XV of Organic Law 10/1995, November 23, of the Penal Code, specifically Articles 311.1 and 312.2 referring to cases where there is a particularly grave or egregious violation of labour laws.

However, **forced labour**, as defined by the ILO Convention is **not specifically defined in the Spanish Penal Code**; this presents serious obstacles to the prosecution of this form of criminal behaviour and, especially, to the identification and protection of the victims.

These obstacles are only compounded when the forced labour activity is not regulated by labour law or when said activity is classified as a crime. In cases where the activity is not considered as legitimate labour, it:

- Falls outside the competences of Labour Inspections and Social Security Services or the action of trade unions.
- Falls outside the strict criminal definition of labour exploitation.

B. FORCED LABOUR AND HUMAN TRAFFICKING

Given the growing phenomenon of human trafficking in recent years, and its close relation to forced labour, it is important to clarify the concept of human trafficking.

Human trafficking involves the subjugation of a person, using violence (or the threat of violence), intimidation, deception or abuse of a position of superiority over or the vulnerability of the victim, generally involving the transport of persons across international borders (although trafficking can occur within a national territory) for the purposes of exploitation. The **Palermo Protocol**² defines human trafficking as *"the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include at a minimum the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs"*.³

In Spanish law, the crime of human trafficking for any purpose (including forced labour) appears in Section I of **Article 177 bis of the Organic Law 10/1995, November 23, of the Penal Code**⁴. Section 2 of this Article establishes a sub-category where

² **Protocol To Prevent, Suppress and Punish Human Trafficking, Especially Women and Children**, part of the United Nations Convention Against Transnational Organised Crime, 2000.

³ This definition has been reaffirmed by the **Council of Europe Convention on Human Trafficking** (Warsaw 2005) and ratified in **EU Directive 36/2011**.

⁴ According to Section I of Article 177 bis:

"It shall be punished with a sentence of five to eight years of incarceration the crime of human trafficking, taking place within Spanish territory, either from Spain, in transit or destination to, employing violence, intimidation, deception, or abuse of a position of superiority over or the vulnerability of the victim, foreign or national, or in giving or receiving payment or benefits to achieve the consent of the person having control over the victim, the recruitment, transport, transfer, harbouring or receipt, including exchange or transfer, for the purposes of:

- a) The imposition of forced or coerced labour, slavery or practices similar to slavery, servitude or begging.
- b) Sexual exploitation, including pornography.
- c) Exploitation to perform criminal acts.
- d) The removal of organs.
- e) Forced marriage.

There is a situation of need or vulnerability when the person in question has no alternative, real or acceptable, to submit to the abuse".

the victim is a minor, in which case commissive acts (coercion, force or deception) are not required.

In accordance with this definition, human trafficking requires the concurrence of the following elements:

- **Actions:** recruitment and/or transport and/or transfer and/or harbouring and/or receipt of a person, including the exchange or transfer of control over this person.
- **Commissive acts:** violence and/or intimidation and/or deception and/or abuse of power or situation of vulnerability and/or the provision or reception of payments or benefits to achieve the consent of the person having control over the victim.
- **Purposes:** any of the forms of exploitation indicated in Sections a) to e) of Article 177 bis) of the Penal Code. In the case of forced labour, we must exclude cases of organ removal or forced marriages, unless these also result in situations of forced labour.

Forced labour often occurs in concurrence with instances of human trafficking. Thus, Article 1, Point 3 of the Protocol on Forced Labour, states: *"the measures referred to in this Protocol shall include specific action against trafficking in persons for the purposes of forced or compulsory labour"*. It is also important to note that **not all forced labour is a consequence of human trafficking**. It is therefore important to note that the imposition of forced labour per se, understood as compulsory or coerced labour, is not classified as a crime in the Penal Code.

It is also important to consider that, under penal law, human trafficking is an antecedent of criminal action, while forced labour is a crime of exploitation, and thus referred to in Section 9 of Article 177 bis) of the Penal Code, which states: *"In any case, the penalties established in this Article shall be imposed without prejudice to those corresponding, as the case may be, to Article 318 bis of this Code and other criminal acts, including those constituting exploitation"*.

C. FORCED LABOUR AND RELATED ISSUES

- **The crime of coerced begging** is only contemplated in the case of minors, regulated in Art. 232 PC.
- The Penal Code, apart from its consideration as an exculpatory factor in Number II of Article 177 bis, does not include circumstances of forced labour consisting in the imposition of illicit activities.

conclusions

Forced labour is often concurrent with other situations such as labour exploitation and human trafficking. However, it is necessary to distinguish between the two:

- Forced labour is more serious than labour exploitation as it necessarily involves a threat or coercion of the victim. Labour exploitation is considered a departure from valid labour relations, and thus does not encompass the notion of forced or compulsory labour beyond the scope of labour law.
- Not all forced labour takes place within circumstances of human trafficking. Furthermore, human trafficking is an antecedent of a criminal action while forced labour is a crime of exploitation.

The confusion of these two associated concepts, together with the lack of specific categorisation of the phenomenon of forced labour as a criminal act per se has hindered:

- Prosecution and suppression of this criminal conduct and the identification and protection of victims.



3. LEGAL FRAMEWORK

With this analysis of the concept of forced labour and its differentiation from other related issues, it is important to analyse existing legal frameworks, both national and international, to adequately identify activities constituting forced labour.

3. 1. EUROPEAN AND INTERNATIONAL LAW ON FORCED LABOUR

A. THE UNITED NATIONS

The fight against forced labour has been addressed by the United Nations in a number of international instruments, most notably in Article 4 of the **Universal Declaration of Human Rights 1948**, which states *"No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms"*, or Article 8.3 a) of the **International Covenant on Civil and Political Rights of 1966** affirming that *"No one shall be forced to perform forced or compulsory labour"*, the **Convention on Slavery (1926)** and the **1956 Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery**, establishing the need for States to adopt pertinent measures to prevent forced or compulsory labour under conditions analogous to slavery.

Within the United Nations, one of the essential objectives of the International Labour Organisation since its founding in 1919 has been the prohibition of forced labour. In fact, one of the first international instruments of the Organisation addressed this subject: the **Convention No. 29, on forced labour**, adopted in 1930, obliging ratifying States to suppress forced or compulsory labour in all its forms and manifestations. Today, this Convention has been ratified by 178 states, with only 9 having yet to become signatories.

In 1957, the ILO adopted a second instrument, **Convention 105, on the abolition of forced labour**, complementing the previous Convention, centred on forced labour as a means of coercion or political education, as punishment for the expression

of political opinions, participation in strikes, as a means of racial or other types of discrimination or as a means of labour discipline. This Convention has been ratified by 175 countries with only 12 States being non-signatories.

In fact, despite the efforts during recent decades in combating forced labour, this continues to be a scourge. The need to progress in the eradication of forced labour has led to the adoption of two new legal instruments within the scope of the 103 session of the International Labour Conference of 2014:

- The 2014 Protocol of the Convention on Forced Labour, 1930, approved to complement Convention No. 29.
- The Recommendations on Forced Labour (complementary measures), 2014 (no. 203), with complement both the Protocol and Convention No. 29.

In Spain, the Protocol was ratified on December 12, 2017 and come into effect on September 20, 2018, twelve months after the date of ratification in conformity with Article 8.2 of the Protocol.

Furthermore, other legal instruments have been enacted at the United Nations level for the eradication of human trafficking, a practice which, although differing from forced labour, is very often concurrent with forced or coerced labour.

These include, the **United Nations Convention Against Transnational Organised Crime** (Palermo Protocol) approved in the year 2000, in effect in Spain on December 25, 2003, and complemented by the Protocol to Prevent, Suppress and Punish Human Trafficking, Especially Women and Children and the Protocol Against the Smuggling of Immigrants by Land, Sea and Air which came into force in January 2004.

Finally, we must mention the Agenda 2030 for Sustainable Development, approved by the United Nations General Assembly by 193 countries, including Spain, which makes reference to forced labour and human trafficking. As indicated above, SDG 8 of the Agenda 2030 (Goal 8.7) refers to decent work and economic growth and the need for measures to eradicate forced labour, end modern slavery and human trafficking and eliminate child labour (including the recruiting and use of child soldiers) in all its forms by 2025.

B. THE EUROPEAN UNION

A number of European instruments include a cursory reference to the issue of forced labour.

a) Thus, regarding the **Council of Europe** the following instruments can be mentioned, all of which have been ratified by Spain:

- The **European Convention on Human Rights 1950**, the principal European treaty on human rights prohibits slavery and forced or compulsory labour in terms which are very similar to those used in the International Covenant on Civil and Political Rights of 1966
- The **European Social Charter 1961** requires ratifying States to effectively protect the rights of workers to earn a living through freely chosen activity, thus prohibiting the imposition of forced or compulsory labour.
- And, with regards to human trafficking, the **Convention on Action Against Human Trafficking of May 3, 2005** and the **Convention on the Protection of Children Against Sexual Abuse and Sexual Exploitation of October 2007**.

b) At the **European Union** level, the key instruments are the **Charter of Fundamental Rights of the European Union 2000**. Article 5 of the Charter explicitly prohibits slavery and forced labour as a basic precept of the Community.

Human trafficking, however, has been the subject of numerous instruments, such as:

a) The **Council of Europe Convention on Action Against Human Trafficking** of May 3, 2005, and the **Convention for the Protection of Children Against Sexual Exploitation and Sexual Abuse of October 2007**.

b) At the level of the **European Union**:

- **Directive 2011/36/EU** of the European Parliament and European Commission, April 5, 2011, on the prevention and suppression of human trafficking and the protection of victims, substituting the Framework Decision 2002/629/JAI of the European Commission.
- **Directive 2004/81/EC** of the Council of April 29, 2004, on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competence authorities.
- The **European Strategy for the Eradication of Human Trafficking (2021-2025)**.

3.2. FORCED LABOUR UNDER SPANISH LAW

Spanish law contains very few laws referring specifically to forced labour, merely establishing the voluntary nature of all valid labour relations. Thus, it should be noted that, firstly, the Article 35 of the **Spanish Constitution** recognises the right to freely choose one's profession or trade. In developing this Article, the **Workers Statutes**, approved by the Legislative Royal Decree 2/2015, October 23, establishes in Articles 1.1 and 4.1, that freedom is an inherent element of any labour relation.

Following on the above, the phenomenon of forced labour in Spain, and its necessary eradication, has only been addressed in recent years **through a number of legal instruments designed to combat human trafficking**. For example, in 2010, a new Title VII bis **"On human trafficking"** was introduced into the **Penal Code** explicitly criminalising the single precept (Article 177 bis) of human trafficking⁵.

Additionally, **Article 59 bis of Organic Law 4/2000**, January 11, on the rights and freedoms of foreign nationals in Spain and their social integration, recognises the right of **potential victims** of trafficking to a period of restoration and reflection, with a duration of at least ninety days, considered sufficient for the victim to decide if they wish to cooperate with the authorities in investigating the crime and, where applicable, pursue criminal charges. During this period, the victim is authorised to remain in Spain and will not suffer any sanction for their irregular status in Spain with the suspension of any administrative sanctions which may have been imposed or, as the case may be, any order of expulsion which may be pending. The Public Administration will see to their subsistence and, where necessary, their security and protection. Article 59 bis applies only to foreign nationals victims of human trafficking with irregular immigration status although, pursuant to the additional disposition of Royal Decree 557/2011, April 20, approving the Regulation of Organic Law 4/2000, these measures are applicable to potential victims of human trafficking who are citizens of Member states of the European Union or included within the EU regime for foreign nationals referring to the duty to see to their subsistence, security and protection. The **Framework Protocol for the Protection of Victims of Human trafficking**, of October 28, 2011, is the mechanism of cooperation between institutions and applies to all victims of human trafficking

⁵ This was subsequently modified in 2015 to adapt to Directive 36/2011.

regardless of their country of origin and status (nationals of EU member states or non-EU citizens, with regular or irregular status) and establishes procedures for the identification, protection and assistance of all victims of human trafficking regardless of the type of exploitation (labour, sexual or organ removal).

It should also be noted that certain victims, due to the particularities of the sector of activity, are more vulnerable than others. One example of this is domestic workers, where additional measures are planned to protect workers as part of the ratification of the ILO Convention on domestic workers, 2011 (No. 189).

Thus, additional measures are necessary, legal or administrative, to afford assistance and protection to all victims of forced labour, victims of human trafficking or not, regardless of nationality or administrative status.

Plans and programs related to forced labour

In addition to the instruments mentioned, in recent years a number of plans and programs have been approved to address the problem of human trafficking in a systematic and comprehensive manner, such as:

- **Resolution of October 13, 2014, of the Sub-secretariate of the Presidency**, on the Agreement of the Framework Protocol for action on Unaccompanied Foreign Minors. This Protocol is all applicable to foreign minors who are in situations of clear hardship and abandonment, and at significant risk from human trafficking networks. The disposition in the prevention of human trafficking include in this Protocol are applicable to all foreign minors regardless of their legal status.
- **Instruction 6/2016, of the Secretary for State Security of the Ministry of the Interior**, on actions by the police and state security services in combatting human trafficking and on collaboration with organisations and entities with certified experience in assisting victims.
- **Strategic Plan for Labour Inspections and Social Security Services 2021, 2022 and 2023.**
- **National Strategy against Organised and Serious Crime (2019-2023).**

However, it should be noted that public authorities have not yet adopted any action plan or program referring to human trafficking for labour nor referring to forced labour *per se*.

This shortcoming should be resolved immediately, not only because it is a requirement of Protocol 2014 but also because, in congruence with the Government Action Plan for the Implementation of the 2030 Agenda, there can be no place for forced labour in Spain.

conclusions

Human trafficking has been the subject of numerous instruments both national and international.

Actions taken to suppress human trafficking have largely centred on trafficking for the purposes of sexual exploitation.

As a consequence, both the phenomenon of forced labour, and human trafficking for labour exploitation, have not received due attention until now, neither in terms of regulation nor in terms of decisive action by Public Authorities.



4. DIAGNOSTIC OF COMPULSORY LABOUR RELATIONS AND OTHER FORMS OF FORCED LABOUR IN SPAIN

Conducting a thorough diagnostic of the situation of forced labour in Spain is a difficult and complex task. The absence of a centralised database and the lack of effective coordination or data sharing among public entities makes it difficult to have an accurate view of the realities of forced labour in Spain.

Analysis of data from the Ministry of the Interior

In the 2020 Global Report on human trafficking⁶, the United Nations identified **labour exploitation or forced labour as the second most frequent purpose of human trafficking**, accounting for 38% of cases worldwide. At a regional level, in Western Europe this figure is 32%. It should be noted that statistics in Spain refer largely to human trafficking for the purposes of forced labour and cases of labour exploitation.

As noted, Spanish law does not specifically classify forced labour itself as a criminal act, being associated with one of the purposes of human trafficking set forth in Article 177 bis of the Penal Code. Thus, the figures at the disposal of the Ministry of the Interior, derived from the Centre for Intelligence Against Terrorism and Organised Crime (*Centro de Inteligencia contra el Terrorismo y el Crimen Organizado* or CITCO), are limited to this specific aspect.

Furthermore, despite the enormous efforts of the National Police and the Guardia Civil over many years in the prosecution of these crimes and the identification and protection of the victims, data has only been available to the Ministry of the Interior since 2015, after improvements were made to the information of the BDTRATA

⁶ Global Report on Human Trafficking. United Nations Office on Drugs and Crime, 2020.

database managed by the CITCO. These improvements were consolidated in 2016 with the integration of data about the other possible purposes of human trafficking, recognised in Article 177 bis of the Penal Code, including begging or criminal activities.

According to the latest *Report on Human Trafficking in Spain*, human trafficking for the purposes of forced labour and exploitation represented **in 2020, some 41% of the cases** of the Guardia Civil and the National Police, accounting for **53% of identified victims** or **40% of those arrested**. More specifically, in 2020 the Police and state security services identified a **total of 647 victims**, of whom 99 were victims of human trafficking, 548 of labour exploitation; 5 minors were also identified: 1 a victim of trafficking and 4 of labour exploitation.

By **nationality**, in 2020 the principal victims of human trafficking were from Honduras, Romania and Nicaragua, The victims of labour exploitation were principally Moroccan, Nicaraguan and Spanish. In terms of **gender**, the situation has been evolving over time, with a rising number of women being victims of human trafficking for labour. Until the year 2018, the victims of human trafficking for labour were predominantly men, at a ratio of 80%-20%; in 2019 the figures approached parity between men and women, 57%-43%, and by the year 2020 women represented two thirds of the victims of human trafficking for labour.

In terms of the **average age** of victims of human trafficking and labour exploitation, in 2020 the most common ages was from 23 to 27 (25%), with some 73% of victims being under the age of 38.

Deception (73%) and the **abuse of the need or vulnerability** (72%) were the most common methods in recruiting victims of human trafficking for forced labour.

The prevalence of **criminal gangs and organisations** in human trafficking for forced labour is limited considering overall figures. In 2020, only 24 criminal groups and organisations were detected while 55% of identified victims and 51% of persons arrested had no relation with organised crime.

Regarding human trafficking for the **purposes of begging or criminal activity**, investigation and prosecution of these cases is highly complex. There is limited information about forced begging or the hidden circumstances behind other criminal activities such as robbery, theft, drug trafficking or drug cultivation. In these cases victims are difficult to detect and identify, remaining largely invisible.

Nevertheless, Police and state security services have made significant efforts in recent years to investigate these lesser known purposes of human trafficking. In 2020, two police investigations identified **7 victims of human trafficking for criminal activities**. These figures may appear insignificant considering they represent only 4% of the total number of identified trafficking victims.

Some 70% of these victims were adult women from China of various ages.

Analysis of data from the State Labour Inspections and Social Security Services (OEITSS)

The State Labour Inspections and Social Security Services (*Organismo Estatal Inspección de Trabajo y Seguridad Social* or OEITSS) operates according to Law 23/2015, July 21, the Labour Inspections and Social Security Services Ordinance. According to Article 12, labour inspections consist of the oversight and enforcement of regulatory labour norms and standards, collective agreements, etc, in a number of areas: labour relations, health and safety, Social Security, employment and migration, as well as providing technical assistance to companies, workers and Public Entities; services for employment conciliation, mediation and arbitration. Labour inspections to detect instances of forced labour fall within the scope of investigations of possible violations of labour law (Articles 177 bis and 311 and following of the Penal Code).

Should any evidence of possible criminal activity be detected during the course of labour inspections, this is reported to the Office of the Public Prosecutor. Where criminal investigations are then initiated, any procedures for administrative sanctions are put on hold until there is a final sentence in the criminal case under the legal principle on '*non bis in idem*'.

Therefore, information from the OEITSS database refers to situations where inspectors have detected possible cases of criminal behaviour and reported to the Public Prosecutor.

At the present time, data from the OEITSS on labour inspections cannot be segregated to identify these types of crimes although initiatives are underway to develop and modify the database to allow this type of analysis.

Analysis of data from the Public Prosecutor

Given that forced labour is not strictly categorised as a crime under Spanish law as required by the ILO Protocol of 2014, it is not possible to determine the number of criminal cases arising from the investigation and prosecution of forced labour as these are subsumed into a plurality of crimes that are not strictly delimited (crimes against labour rights, intimidation and coercion, illegal detention, etc).

The only data specifically associated with forced labour and coercion that is rigorously classified is that referring to the crime of human trafficking associated with labour, begging, slavery, servitude, sexual exploitation, illicit activities and forced marriages⁷.

DSTSH CASES FROM 2013 TO 2020

YEAR	Labour	Begging	Sexual exploitation	Crime	Forced marriage	Organ removal	TOTAL
2013	11	6	129	=	=	0	146
2014	10	4	154	=	=	0	168
2015	15	4	74	0	3	0	96
2016	8	2	69	3	2	0	84
2017	10	4	107	2	5	1	128
2018	13	1	91	3	6	1	115
2019	27	0	148	7	1	0	183
2020	21	2	89	8	0	0	120
TOTAL	115	23	861	23	17	2	1,039

The 115 criminal proceedings (Diligencias de Seguimiento del Delito de Trata de Seres Humanos or DSTSH) associated with **labour** during the period from 2013 to 2020 represent 11.06% of the total DSTSH cases.

⁷ In some cases in Europe, forced marriage has been used as a means to impose labour on the victim (especially domestic work and sexual exploitation). Modalities of forced marriage and illicit activities were incorporated into Article 177 bis PC by the reform OL 1/2015, March 30.

The number of victims identified in this period totalled 269 adult women and 488 adult men from four continents⁸. Additionally, 9 minors were identified and two persons with severe mental disabilities. In terms of nationalities, most victims of human trafficking for labour are from Romania, Pakistan, Portugal and Bulgaria (both quantitatively and in terms of the numbers detected each year). There are occasional and notable instances with victims from Nicaragua, Russia and Morocco while there are only occasional instances involving those of other nationalities.

Practically all of these victims were recruited through deception (false promises of dignified, well-paid work) and abusing their situation of need. These individuals were transported to Spain to be exploited in a variety of different activities: especially seasonal agricultural work (55 DSTSH = 47.82 %), domestic work, care for children or the elderly (20 DSTSH = 17.39 %), the hospitality sector (8 DSTSH = 6.95 %) and peddling (5 DSTSH). The rest were detected in a multitude of activities (driver, gardener, the textile industry, cleaning, agrotourism, scrap collecting, construction, pig farming and beauty salons). Before the reform of the Penal Code of 2015 (Law 1/2015) 3 DSTSH involved trafficking in which the victim was coerced into committing certain crimes (theft and pickpocketing).

The conditions of exploitation are egregious assaults on the most elemental human rights (retention of documentation, poor housing, null or minimal payment, isolation, abusive hours, constant surveillance, etc.).

These DSTSH involved 87 women and 390 men from Africa (Morocco and Senegal), America (Brazil, Ecuador, El Salvador, Guatemala, Honduras, Nicaragua, Paraguay, Peru and Venezuela), Asia (China, India, Pakistan and Vietnam) and Europe (Bulgaria, Spain, Lithuania, Moldova, the Netherlands, Poland, Portugal, Romania and Ukraine). A number of those investigated are members of criminal gangs (there are a total of 42 DSTSH cases involving labour exploitation by criminal organisations).

Since 2015, some 14 sentences have been imposed for crimes on human trafficking and labour exploitation. Of these, three have been convictions and one partial conviction. As is generally the case with crimes of human trafficking, when the commissive acts are extremely violent, leaving appreciable physical and/or psychic scars on the victims,

⁸ Africa (Angola, Gambia, Guinea Conakry, Mali, Morocco and Senegal), America (Brazil, Chile, Colombia, El Salvador, Guatemala, Honduras, Nicaragua, Paraguay, Peru, Dominican Rep. and Venezuela), Asia (China, India, Pakistan and Vietnam) and Europe (Bosnia, Bulgaria, Spain, France, Lithuania, Moldova, Poland, Portugal, Romania and Russia).

it is more possible to achieve a conviction; when the perpetrator abuses the need or vulnerability of the victim or by means of threats, this becomes extremely difficult. The victim, either due to fear, need or other motives, rarely confronts the traffickers. In these cases, consent was hypothetically given freely; for judges, it would appear that the victim always had a real or acceptable option not to submit to the abuse.

Furthermore, as the Public Prosecutor affirms in the 2019 Report (page 1263) *"just as the means of regulating prostitution and procuring conditions the prevention, prosecution and protection of the victims of human trafficking for the purposes of sexual exploitation, the manner in which legislators classify other forms of exploitation, especially the misnamed "labour exploitation", conditions the success of global action against all types of human trafficking".* In effect, given the absence of an accurate classification of crimes in Article 177.I a) bis PC, filled with legal imprecisions, and Articles 311.I and 312.2 PC, effective prosecution is impossible.

Human trafficking for the purposes of begging represents 2.21 % of the total number of DSTSH. There were 44 Romanian victims identified in 23 DSTSH (12 of whom were girls and 2 boys, in addition to two elderly individuals), although other incidences of this type of trafficking have been investigated involving Bulgarians (4 male victims) and Nigerians (3 female victims).

In these cases recruitment was through deception, generally with false promises of work. The imposition of begging is habitually accompanied by physical and psychological violence. One case was detected in which the victim was deprived of food for days and another where an elderly man who, due to the inhuman conditions in which he was kept, receiving only tobacco and little food, suffered an aggravation of a pre-existing pathology which resulted in the amputation of a leg. Victims are subjected to close surveillance, forced to work abusive hours, are kept in unhealthy and overcrowded conditions and, of course, deprived of any money they collect. In certain cases, the victims were forbidden to wash and were forced to look for food in rubbish bins and, occasionally, commit theft and pickpocketing.

Some thirty-six individuals were investigated for this crime, normally members of family clans (28 men and 8 women of Romanian or Bulgarian nationality, all Romani).

The use of slaves to carry out criminal activities has been a reality in Spain since the first DSTSH in any of its forms. Women exploited in prostitution or begging, forced to sell drugs, commit theft or many other crimes. However, the Penal Code of 2015, these classified as specific forms of exploitation.

Since then, there have been 23 DSTSH for a range of criminal purposes (8 DSTSH for property crimes, 2 DSTSH for fraud, 3 DSTSH for drug distribution and transportation, 1 DSTSH for usurpation of civil status, 8 DSTSH for the cultivation of marihuana and 1 for illegal tobacco cultivation).

Some 20 criminal organisations are under investigation, among them a criminal gang from Bosnia, two Romanian clans and one especially violent group from Bulgaria, a Chinese criminal organisation dedicated to drug trafficking, another Ukrainian gang producing illegal tobacco in underground facilities, as well as a Taiwanese organisation.

The absence of criminal category for the imposition of criminal activities victims are left largely defenceless.

Data on judicial actions

The General Council of the Judiciary (*Consejo General del Poder Judicial* or CGPJ) does not systematically collect or analyse data on the judicial action against crimes against worker rights (labour exploitation) nor in relation to human trafficking. Thus, the only data that can be gathered regarding judicial action in this area is from an analysis of criminal sentences incorporated into the Documental Record issued by the Judicial Documentation Centre (*Centro de Documentación Judicial* or CENDOJ), which do not include sentences by single judge courts (Penal Courts or Courts of Instruction). Given these circumstances, it is not possible to make an exact quantitative analysis of the judicial action in response to human trafficking for the purposes of labour (Article 177 bis PC) and labour exploitation (Article 311.I PC).

Given these limitations, until 2016 only three cases can be identified for human trafficking for labour, two of which on the similar practice of slavery and one for exploitation for begging. From January 2016 to January 2021, some 162 sentences have been imposed for the crime of human trafficking, of which only 18 were for the purposes of slavery or practices similar to servitude or begging, and two sentences dealing with trafficking for criminal activities. Of these 20 sentences, only 8 were convictions, 4 referring to the same 2 cases tried in the first and second instance. The judicial database of the CGPJ only registers 6 cases of convictions for human trafficking for the purposes of forced labour, slavery or similar practices, or servitude. (3 cases), begging (2 cases), or exploitation for criminal activities (1 case). The remaining 12 sentences were acquittals due to insufficient evidence.

Notably, among the causes for acquittal was the actual text of the Penal Code; specifically, the purposes indicated in Article 177 bis, Section I, do not include "exploitation of labour" as such, referring only to forced labour, slavery or servitude, which led the Courts to reject the consideration of the crime of human trafficking from the moment the victim affirmed they laboured voluntarily, regardless of the conditions of said labour (often when there was no record of any remuneration or payment for labour).

In any case, it is clear that judicial action on human trafficking for labour exploitation or other coerced activities is different from strictly sexual exploitation. The figures provided by the Ministry of the Interior and the Public Prosecutor indicate that the number of convictions for human trafficking for labour exploitation are practically anecdotal.

In 2018, according to the CENDOJ database, there were only 4 convictions for labour exploitation (Article 311.I PC), and of the four sentences imposed these were disproportionately mild (two sentences of one year in prison, another for 18 months and a third for 3 years and 2 months) considering the gravity of the crime committed (all for cases of semi-enslavement of workers and maintaining them in inhuman conditions). This trend persisted through 2019 and 2020, during which there were only 7 sentences recorded by the CENDOJ for the crime of labour exploitation as expressed in Article 311, Section I of the Penal Code. In these cases, the penalties imposed (many plea deals) ranged from 1 year and 3 months in prison, except for one particularly serious case of human trafficking in which the defendant was acquitted for the crime in Article 177 bis, for the reasons expressed above, and convicted of labour exploitation with a sentence of 5 to 7 years in prison.

This disparity between the number of investigations conducted by the Police and state security services and the actions of the Public Prosecutor, on one hand, and actual convictions highlights the **notable deficiencies** in the prosecution and punishment of these types of activities which must be analysed and address urgently.

A large number of **investigations** into crimes against labour rights are limited to cases in which employees are working without registration in the Social Security system, with very little further investigation into the conditions under which work is performed.

Evidently, **the real prosecution** of these crimes is limited to cases where there is a conviction for criminal activities as defined in the Penal Code. Reforms of the types

of crime is not enough. It is also necessary to improve enforcement (both of existing definitions of criminal activity and new criminal acts which must be included in the Penal Code).

Additionally, the lack of any systematic data collection on judicial action in combatting human trafficking and labour exploitation hinders any rigorous analysis of actual prosecution of crimes related to forced or coerced labour.

conclusions

Conducting a thorough diagnostic of the situation of forced labour in Spain is a difficult and complex task. The absence of a centralised database and the lack of effective coordination or data sharing among public entities makes it difficult to have an accurate view of the reality.

In any case, forced labour is not a prevalent phenomenon in Spain, not even in sectors which are traditionally most associated with the risk of these criminal practices.

Nevertheless, there are significant deficiencies in the prosecution of these crimes, making it necessary to implement appropriate mechanisms for intervention and coordination between the institutions and entities involved.



5. WHY AN ACTION PLAN?

Because we must comply with our international obligations

The **Protocol of the Convention on Forced Labour, 1930**, requires that States adopt measures for the **prevention, protection and restitution** to meet their obligations in the suppression of forced labour established in Convention No. 29.

In Spain, the Protocol was ratified on December 12, 2017, taking effect on **2 September 20, 2018**. **Article 1.2 of the Protocol** requires States to develop a *“national action policy and planning for the effective and sustained suppression of forced or compulsory labour in consultation with employers and workers organisations, which shall involve systematic action by the competent authorities”*.

With this Action Plan for the eradication of forced labour, Spain will fulfil its commitments assumed in the ratification of the 2014 Protocol.

Equally, this Action Plan is a step forward in compliance with Agenda 2030, a priority for all citizens. Addressing the issue of forced labour and establishing mechanisms for its eradication is a fundamental aspect of several Sustainable Development Goals, such as decent work, the creation of just, peaceful and inclusive societies or gender equality. This Plan will permit the creation of the tools necessary to meet these objectives.

Because there is no place for forced labour in Spain

This Action Plan is not merely to comply with an international obligation. In fact, other States that have ratified the Protocol have not created a plan like this one.

This Action Plan is the product of a decisive intention to **definitively eradicate compulsory or coercive labour practices in our country**. Forced labour is a direct violation of human rights and an attack on human dignity; combating this phenomenon is both a moral obligation and a necessity for a just society with a culture of respect. The fact that forced labour is not highly prevalent in Spain does not mean that combating existing cases with all the means at our disposal is not a priority. Instances of forced labour, while limited, must be the object of severe

penalty and reproach, and society must make the utmost efforts to eradicate instances of forced labour in Spain. This will require greater education, information and social awareness of this kind of criminal conduct, as well as greater efforts in the detection and prosecution with more severe administrative and penal sanctions against those found guilty of these crimes while better protecting and assisting victims.

It should also be noted that the fight against these types of practices involves a significant number of different government entities and departments. **Better coordination** among all of these is an indispensable prerequisite to reinforce the effectiveness of the fight against forced labour and is thus one of the fundamental objectives of the present Action Plan. It will also require the involvement of social agents and specialised entities which can offer a broad and practical vision of the realities of forced labour within Spain.

Furthermore, it must be emphasised that the ultimate goal is the eradication of forced labour both within Spain and beyond. This means that Spain must continue to work to suppress these activities both within the country and abroad, including establishing mechanisms which ensure that companies and organisations in or with relations to Spain are free of any cases of forced labour, developing international relations based on the respect and protection of human rights and fundamental freedoms. These efforts must include the fight against forced labour within global supply chains with subcontractors or other labour intermediaries.

Basic pillars of the National Action Plan Against Forced labour:

First. The Plan must differentiate between compulsory labour relations strictly speaking and coerced activities, including extra-legal and illegal activities, with the exclusion of cases of sexual exploitation (involving human trafficking or not) which, as indicated above, are the subject of a specific national plan.

Second. The measures must include the clear and specific classification of crimes of slavery, servitude and forced labour as expressed in the 2014 Protocol.

Third. The measures must be aimed at rigorously and systematically transposing the recommendations of the ILO, expressed in the 2014 Protocol and further developed in Recommendation No. 203, for the prevention of forced labour, the protection, assistance, restoration and compensation of the victims of forced labour and international cooperation.

Fourth. One of the fundamental principles and central values of this Action Plan is the protection of the victims. The actions and policies of the plan are intended and designed to improve the protections afforded to the victims of forced labour.

For the protection of victims, the plan distinguishes between cases of forced labour, subject to the Criminal Prosecutions Act, and other cases which, while outside the scope of this act, are characterised by similar situations of domination and coercion that can be considered as instances of slavery, servitude and forced labour also requiring a system of administrative protection for victims.



6. NATIONAL ACTION PLAN AGAINST FORCED OR COMPULSORY LABOUR

6.1. PURPOSE, OBJECTIVES AND METHODOLOGY OF THE ACTION PLAN

The goal of the *National Action Plan* is the **effective and sustained suppression of forced and compulsory labour** in all its forms and manifestations.

In summary, the Action Plan constitutes an instrument that serves to join the forces of all those involved in the suppression of forced Labour in Spain; proposing the establishment of new methods and protocols with particular reference for the need to reinforced collaboration and coordination between Public Administrations, Institutions and Civil Society. Trade unions, employer associations and non-governmental agencies, especially those working with immigrant communities, play an important role. The aim is also to re-enforce international cooperation for the detection of cases of forced labour, identifying and decisively advancing in the prevention and suppression of forced labour.

Metodología

The Social Dialogue Forum (Mesa de Diálogo Social), in a meeting held on July 26, 2018, agreed on the creation of a National Action Plan Against Forced or Compulsory Labour: tasking its coordination and execution to the then **Ministry of Work, Migration and Social Security**.

For the creation of this Action Plan, the then Ministry of Work, Migration and Social Security, created a working group with representatives from the Ministries of the Interior, Justice, Presidency, Parliamentary Relations and Equality, External Affairs, the European Union and Cooperation, Education and Professional Training and Health, Consumption and Social Welfare, with additional representatives from the Office of the Public Prosecutor and the General Council of the Judiciary.

Subsequently, after changes in the participating Ministries, the task of creating the plan was reinitiated in June 2020 by the Ministry of Work and Social Economy, specifically the State Labour Inspections and Social Security Services. At this moment, a working group was also formed at the Ministry of Revenues and the Ministry of Social Rights and Agenda 2030.

The result of this working group was presented to social agents within the framework of the Social Dialogue Forum in order for them to contribute their perspectives prior to the approval of the final Plan.

The Plan was then submitted to non-governmental organisations specialised in this issue, giving them the opportunity to offer their observations and contributions.



7. STRUCTURE OF THE ACTION PLAN

The Action Plan encompasses 41 actions, structured into 13 objectives, grouped into 5 areas of action, in accordance with the design outlined in the Protocol and Recommendations of the ILO. Each of the actions within the Plan include:

- **Units responsible for execution**, the units responsible for the execution of each of the actions, regardless of their type.
- **Type of action**, given that not all of the actions can be implemented immediately, some will require prior study and/or collaboration between different entities. These have been divided into three types of actions:
 - **Individual actions**: measures that can be directly implemented by the different units.
 - **Collaborative actions which require the creation of a working group**: within each working group the actions should be taken for the conduct of a study of the current situation and the design and development of different measures to be implemented.
 - **Collaborative actions to be executed individually**: measures which can be undertaken by each unit but that require certain collaboration and coordination between all the units involved.
- **Unit responsible for coordination**: in the case of collaborative measures undertaken by a working group, an entity responsible for coordination and organisation will be determined in each case to lead the working group.

I. MEASURES FOR ANALYSIS AND STUDY OF THE PHENOMENON

As has been made clear in this analysis of the current situation of forced labour in Spain, there is no single source of reliable data on cases of forced labour. Thus, it is essential to improve our understanding of the realities of forced labour in Spain in order to design actions to achieve three key objectives:

- **Objective 1.** To fully explore and understand the phenomenon of forced labour and its various dimensions.
- **Objective 2.** Creation of specific statistical tools to analyse the situation of forced labour, in line with the broader European context.
- **Objective 3.** Creation of an indicator of forced labour.

II. MEASURES FOR PREVENTION, AWARENESS AND TRAINING

These consist of a set of measures designed to anticipate the existing risks of forced labour, including measures for education, training, information and awareness aimed both at society in general and especially those individuals considered vulnerable, potential employers and the public authorities responsible for the fight against these practices.

These measures encompass a range of different actions aimed at achieving the following objectives:

- **Objective 4.** Actions aimed at informing and raising social awareness of the phenomenon of forced labour.
- **Objective 5.** Specialised training actions for public officials and other key agents.
- **Objective 6.** Prevention and support actions for more inclusive education.

III. MEASURES FOR DETECTION, INVESTIGATION AND PROSECUTION

These consist of reactive measures to effectively address situations of forced labour, including actions which engage all parties involved in the fight against forced labour, such as business associations, trade unions and NGOs. The objectives for this section are:

- **Objective 7.** Actions to improve the capacity of State Labour Inspection and Social Security Service to identify and address situations of forced labour.
- **Objective 8.** Actions to improve the capacity of the Police and state security services to detect, investigate and suppress these criminal actions.

- **Objective 9.** Actions to improve the capacity of the Public Prosecutor and the judiciary to prosecute these criminal practices.
- **Objective 10.** The establishment of procedures and protocols for coordination, collaboration and cooperation aimed at enhancing the capacity for early detection, improving investigation and prosecution of criminal practices.

IV. MEASURES FOR PROTECTION AND SUPPORT OF VICTIMS

This includes measures for the protection of victims, as well as actions to ensure access to legal recourse and restitution, in order to meet the following objectives:

- **Objective 11.** Actions to improve the protection and assistance of victims.
- **Objective 12.** Actions to improve the coordination, collaboration and cooperations between social interlocutors, specialised NGOs, etc.

V. MEASURES FOR INTERNATIONAL COORDINATION AND COOPERATION

- **Objective 13.** Actions to enhance international cooperation to address situations of forced labour.

The following section provides a more detailed description of the measures, objectives and actions, indicating for each action time frames and the entities responsible for implementation and execution as set forth in Article 1 a) of the Recommendation 203 of the ILO.



8. DURATION, OVERSIGHT AND EVALUATION

8.1. DURATION OF THE PLAN

The Plan will have a duration of 3 years, the period considered necessary for the effective implementation of the measures and sufficient for an evaluation of their effectiveness.

8.2. OVERSIGHT AND EVALUATION OF THE PLAN

For the effective implementation of the Action Plan, an Inter-ministerial Working Group will be established. The Group will meet annually, with the following functions:

- Coordination of the actions by the Public Administration involving different ministerial departments .
- Oversight and evaluation of the execution of the Plan.
- Identification of critical elements and strengths.

This Inter-ministerial Working Group will be responsible for reporting on the oversight and final evaluation of the Plan, collecting all information related to the project undertaken over the course of the three years of the Plan. This report will serve as the basis for the planning, design and/or implementation of future public policies to address the issue of forced or compulsory labour and human trafficking.

This final evaluation report will be produced at the end of the Plan execution period, based on methodologies and using quantitative and qualitative tools. The fundamental aim of the report will be to determine the degree of compliance with the various objectives and actions included in the Plan as well as their degree of implementation and effectiveness in eradicating forced labour. This final evaluation will be based on specific criteria such as the degree of implementation, the results obtained, the efficiency, relevance and impact of the Plan and gender issues.

Additionally, for certain specific actions, depending on their nature or importance to the overall Action Plan, the working group may decide to fix specific oversight indicators that permit a closer evaluation of the degree of compliance with these actions.

The Inter-ministerial Working Group will be presided over by the OEITSS, specifically by the National Delegation Against Forced labour, headed by the Director of the OEITSS. The Working Group will incorporate representatives from the following Departments:

- Ministry of Work and Social Economy (MITES).
- Ministry of Inclusion, Social Security and Migration (MISSM).
- Ministry of the Interior (MINT).
- Ministry of Justice (MJU).
- General Council of the Judiciary (CGPJ).
- State Attorney General (FGE).
- Ministry of External Affairs, European Union and Cooperation (MAEUEC).
- Ministry of Social Rights and Agenda 2030.
- Ministry of Equality (MIGUALDAD).
- Ministry of Education and Vocational Training (MEFP).

Once this inter-ministerial group has been established, it will define its norms and operation. The group will meet at least once a year.

The evaluation and oversight process of the National Action Plan must also allow for the participation of representative employer organisations and trade unions as well as organisations specialised in the fight against forced labour in a manner to be determined.

Upon the conclusion of the Action Plan, the Government will present an evaluation report on the degree of execution and the Plan and its effectiveness. This report will be based on the analysis of reliable, impartial and detailed statistical information on the realities of forced labour.

FINANCIAL RESOURCES

To achieve the objectives set out in this Action Plan, **each entity will assign the financial resources necessary in accordance with the proposed measures** for each of the actions within their area of competence.

All commitments arising from the implementation of this Action Plan are subject to the budgetary availability for the current year and subsequent years, in line with the project of fiscal consolidation undertaken by the Government. In the case of actions within the competence of Autonomous Communities and Local Entities, the contents of this plan are discretionary.



9. NATIONAL ACTION PLAN AGAINST FORCED LABOUR AND COMPULSORY LABOUR

AREA I. MEASURES FOR ANALYSIS AND STUDY OF THE PHENOMENON

OBJECTIVE 1.

To fully explore and understand the phenomenon of forced labour and its various dimensions

NUMBER	ACTION	UNITS RESPONSIBLE FOR EXECUTION	TYPE OF ACTION	UNITS RESPONSIBLE FOR COORDINATION
I	Joint analysis and study , taking into consideration specific perspectives of gender and minors and, where appropriate, other perspectives (sexual and gender diversity, nationality, ethnicity, etc) by the entities involved in these issues. This will permit the identification of patterns of behaviour or “modus operandi” of criminal organisations involved in forced labour, and serve as an important source of knowledge for future investigations and for detection <i>bigdata</i> and data mining.	FGE MITES MISSM MJU CGPJ MINT Ministry of Social Rights and Agenda 2030 Equality	Collaborative action: Creation of Working Group	MITES

OBJECTIVE 2.

Creation of specific statistical tools to analyse the situation of forced labour, in line with the broader European context⁹

NUMBER	ACTION	UNITS RESPONSIBLE FOR EXECUTION	TYPE OF ACTION	UNITS RESPONSIBLE FOR COORDINATION
2	Integration of statistical and strategic information from the Ministry of the Interior on actions against forced and compulsory labour with the creation of specific intelligence data, including data on human trafficking, from the Centre for Intelligence Against Terrorism and Organised Crime (CITCO) and fomenting the integration of data with Police forces.	MINT	Individual action	MINT

⁹Without a reform of the Penal Code to include the crime of forced labour, it should be noted that all actions in this area are circumscribed by Article 177 bis (trafficking for the purposes of forced or coerced labour; slavery or practices similar to slavery, servitude, begging or human trafficking for the purposes of criminal activities) and the crimes of labour exploitation in Article 311 and following.

OBJECTIVE 2.

Creation of specific statistical tools to analyse the situation of forced labour, in line with the broader European context⁹

NUMBER	ACTION	UNITS RESPONSIBLE FOR EXECUTION	TYPE OF ACTION	UNITS RESPONSIBLE FOR COORDINATION
3	Improvement of the OEITSS information system in the detection of situations of possible forced labour.	MITES	Individual action	MITES
4	Implementation of an oversight and monitoring system on forced labour at the FGE.	FGE	Individual action	FGE
5	Improvement of the judicial documentation service in information and statistics about judicial action against forced labour.	CGPJ	Individual action	CGPJ
6	Improvement of information systems and data collection of other competent centres, taking into consideration specific perspectives of gender and minors and, where appropriate, other perspectives (sexual and gender diversity, nationality, ethnicity, etc), to determine how forced labour and coerced activities affect women and men, as well as LGBTQ+ individuals and other distinct population groups in Spain.	ALL	Individual action of each department	ALL

OBJECTIVE 3.

Creation of an indicator (s) of forced labour

NUMBER	ACTION	UNITS RESPONSIBLE FOR EXECUTION	TYPE OF ACTION	UNITS RESPONSIBLE FOR COORDINATION
7	Establish a structured system of indicators of forced or compulsory labour and other coerced activities. Analysis of possible sectorial differences.	FGE MINT MITES	Collaborative action: Creation of Working Group	MITES

AREA II. MEASURES FOR PREVENTION, AWARENESS AND TRAINING

OBJECTIVE 4.

Actions aimed at informing and raising social awareness of the phenomenon of forced labour

NUMBER	ACTION	UNITS RESPONSIBLE FOR EXECUTION	TYPE OF ACTION	UNITS RESPONSIBLE FOR COORDINATION
8	Creation of an information campaign aimed at employers and employees, focussing on sectors or areas where there is a higher risk of forced labour or potential coercive labour practices, including collaboration with social interlocutors, NGOs, etc. , in the dissemination of information. It should also aim to inform immigrants working in Spain of their basic rights as well as Spanish immigrants abroad through Diplomatic and Consular Missions and/or Employment Offices . Study of possible creation of subsidised calls for these types of information campaigns for the promotion and defence of human rights and International Cooperation for Development.	MITES MISSM MINT MAEUEC	Collaborative action: Creation of Working Group	MITES
9	Creation of an information campaign with ad hoc materials as well as the commemoration of December 2 nd as International Abolition of Slavery Day .	ALL	Individual action of each department	ALL

OBJECTIVE 5.

Specialised training actions for public officials and other key agents

NUMBER	ACTION	UNITS RESPONSIBLE FOR EXECUTION	TYPE OF ACTION	UNITS RESPONSIBLE FOR COORDINATION
10	To impart specialisation courses for all Administration personnel, including those working abroad, involved in the fight against forced labour and other coerced activities, offering a more complete vision of the process, improving the effectiveness of actions. This should also include the revision and updating of all materials for learning programs. To foster the collaboration between different departments in providing these specialisation courses, also working with specialised entities.	ALL	Individual action of each department	ALL
11	Organisation of sessions for joint analysis of forced labour and other coerced activities, in conjunction with specialised entities.	ALL	Collaborative action	MITES

OBJECTIVE 5.

Specialised training actions for public officials and other key agents

NUMBER	ACTION	UNITS RESPONSIBLE FOR EXECUTION	TYPE OF ACTION	UNITS RESPONSIBLE FOR COORDINATION
12	Promote the training of key agents and social interlocutors in relation to forced labour and other coerced activities.	MITES MINT FGE	Collaborative action	MITES

OBJECTIVE 6.

Prevention and support actions for more inclusive education

NUMBER	ACTION	UNITS RESPONSIBLE FOR EXECUTION	TYPE OF ACTION	UNITS RESPONSIBLE FOR COORDINATION
13	<p>With the aim of achieving a more inclusive education system, the following measures will be taken:</p> <ul style="list-style-type: none"> ▶ To offer more educational opportunities to students with personal or social difficulties through the implementation of Organic Law 3/2020, December 29, modifying Organic Law 2/2006, May 3, on Education. The reform and development of this law is oriented towards creating a more inclusive education. ▶ The Orientation, Advance and Enrichment Education Program in special education centres (#PROA+ Program). This inter-territorial cooperation program is aimed at reducing and preventing early school abandonment by offering support to schools in socio-economically vulnerable communities, specific interventions aimed at students with special vulnerabilities (such as emigrant children needing extra educational support, etc), as well as additional teacher training and support to address particular and diverse educational needs. ▶ Measures for a more inclusive education in Vocational Training programs for greater educational and employment opportunities. Among other initiatives, the establishment of a Dual Vocational Program, promoting the modality in line with Vocational Training, modular access to vocational training and establishing effective procedures for the recognition and certification of professional competences acquired through work experience. This will help improve employment opportunities and condition of individuals with fewer official professional qualifications. 	MEFP	Individual action	MEFP

OBJECTIVE 6.
Prevention and support actions for more inclusive education

NUMBER	ACTION	UNITS RESPONSIBLE FOR EXECUTION	TYPE OF ACTION	UNITS RESPONSIBLE FOR COORDINATION
14	Inclusion of information/training regarding forced labour and human trafficking from the perspective of universal human rights, the rights of children and gender equality.	MEFP	Individual action	MEFP

AREA III. MEASURES FOR DETECTION, INVESTIGATION AND PROSECUTION

OBJECTIVE 7.
Actions to improve the capacity of State Labour Inspection and Social Security Services to identify and address situations of forced labour

NUMBER	ACTION	UNITS RESPONSIBLE FOR EXECUTION	TYPE OF ACTION	UNITS RESPONSIBLE FOR COORDINATION
15	Creation of model hotlines for the OEITSS in the language of the most frequent victims of forced labour and coerced activities.	MITES	Individual action	MITES
16	Designation of specialised personnel in the fight against forced labour in each provincial Labour Inspection and Social Security Services, as well as the elaboration of an operational guide by OEITSS to improve inspection procedures in the fight against forced labour.	MITES	Individual action	MITES
17	Reinforcement of inspections in geographical areas of sectors and industries where cases of forced labour are most prevalent, including domestic work , while protecting all legal guarantees of privacy.	MITES MINT	Collaborative action	MITES MINT

OBJECTIVE 8.

Actions to improve the capacity of the Police and state security services to detect, investigate and suppress these criminal actions

NUMBER	ACTION	UNITS RESPONSIBLE FOR EXECUTION	TYPE OF ACTION	UNITS RESPONSIBLE FOR COORDINATION
18	Planning and intensification of administrative inspections in locations and sectors which have a higher prevalence of forced labour.	MINT MITES	Collaborative action	MINT MITES
19	Creation of a code of best practices in the detection and investigation of cases of forced labour.	MINT	Individual action	MINT
20	Greater investigation into finances and wealth in the case of crimes related to forced labour, with all due coordination with the State Tax Authorities (<i>Agencia Estatal de Administración Tributaria</i> or AEAT).	MINT MJUS FGE MH	Collaborative action	MINT
21	To enhance the coordination between the Police and state security services and regional police forces investigating forced labour and other coerced activities and the identification of possible victims.	MINT CCAA	Collaborative action	MINT

OBJECTIVE 9.

Actions to improve the capacity of the Public Prosecutor and the judiciary to prosecute these criminal practices

NUMBER	ACTION	UNITS RESPONSIBLE FOR EXECUTION	TYPE OF ACTION	UNITS RESPONSIBLE FOR COORDINATION
22	The differentiated classification in the Penal Code of criminal activities: slavery, servitude, and forced or compulsory labour . Study of the possible inclusion of "labour exploitation" with Section I of Article 177 bis of the Penal Code for the crime of human trafficking.	FGE MJU CGPJ MITES	Collaborative action	MJU

OBJECTIVE 9.

Actions to improve the capacity of the Public Prosecutor and the judiciary to prosecute these criminal practices

NUMBER	ACTION	UNITS RESPONSIBLE FOR EXECUTION	TYPE OF ACTION	UNITS RESPONSIBLE FOR COORDINATION
23	Update of the classification of violations of labour rights in the Penal Code. Including the consideration of a series of sub-categories or aggravating factors according to: a) Exploitation based on discrimination against women. b) Exploitation of persons with irregular immigration status ("undocumented migrants"). c) The particular vulnerability of the victim.	FGE MJU CGPJ MITES	Collaborative action	MJU
24	Introduction in the Penal Code of specific penalties or responsibility of legal persons involved in the contracting or subcontracting of persons subject to forced or compulsory labour.	FGE MJU CGPJ MITES	Collaborative action	MJU
25	Creation of a Circular by the FGE unifying criteria , especially for legal or natural persons acting as intermediaries or clandestine agents, including an analysis of the responsibility of companies receiving or benefiting from criminal labour practices in wilful disregard of the conditions imposed by the intermediaries on workers.	FGE	Individual action	FGE
26	Creation of guides of best practices or criteria for judicial action in cases of labour exploitation, forced labour and coerced activities, including an analysis of jurisprudence related to the use of procedural tools such as pre-constituted evidence that can improve the effectiveness of investigations into these criminal practices.	CGPJ	Individual action	CGPJ

OBJECTIVE 10.

Establishment of procedures and protocols for coordination, collaboration and cooperation aimed at enhancing the capacity for early detection, improving investigation and prosecution of criminal practices

NUMBER	ACTION	UNITS RESPONSIBLE FOR EXECUTION	TYPE OF ACTION	UNITS RESPONSIBLE FOR COORDINATION
27	Creation of Coordination Protocols of the State Attorney General with the Police and state security services.	FGE MINT	Collaborative action	FGE MINT
28	Creation of a new cooperation agreement between the Ministries of the Interior and Work and Social Economy in order to reinforce coordination between the Police and state security services and the State Labour Inspections and Social Security Services in combatting forced labour; in addition to greater coordination between law enforcement and OEITSS in the detection and prosecution of forced labour and other coerced practices, including creating mixed operational teams of Judicial Police – Labour Inspection.	MINT MITES	Collaborative action	MINT MITES
29	Improve coordination between the State Attorney General and the State Labour Inspections and Social Security Services , with a cooperation agreement for better and more successful prosecutions of these types of criminal conduct.	FGE MITES	Collaborative action	FGE MITES
30	Improve coordination between the State Labour Inspections and Social Security Services and the Courts , in cases where this collaboration can optimise investigations into these types of criminal conduct.	CGPJ MITES	Collaborative action	CGPJ MITES
31	Enhance the inter-operativity of competent Ministries and Departments for greater information sharing and better detection of possible organised networks in the area of forced labour.	MITES FGE MINT MH	Collaborative action: creation of a Working Group	MITES
32	Improve the detection of cases of forced labour and coerced activities through collaboration with specialised organisations in line with Instruction 6/2016 of the Secretariate of State Security, and with social interlocutors.	MINT FGE MITES	Collaborative action	MINT

OBJECTIVE IO.

Establishment of procedures and protocols for coordination, collaboration and cooperation aimed at enhancing the capacity for early detection, improving investigation and prosecution of criminal practices

NUMBER	ACTION	UNITS RESPONSIBLE FOR EXECUTION	TYPE OF ACTION	UNITS RESPONSIBLE FOR COORDINATION
33	Maintenance of the existing biometric identification system in the issuing and verification of visas and residence permits.	MAEUEC	Individual action	MAEUEC
34	Study possible avenues of collaboration between the National Government and business and trade union organisations in order to adopt joint measures for the eradication of forced labour and other coerced activities.	MITES	Individual action	MITES

AREA IV. MEASURES FOR THE PROTECTION AND SUPPORT OF VICTIMS

OBJECTIVE II.

Actions to improve the protection and assistance of victims

NUMBER	ACTION	UNITS RESPONSIBLE FOR EXECUTION	TYPE OF ACTION	UNITS RESPONSIBLE FOR COORDINATION
35	<p>Conduct an analysis of the systems of protection and assistance for victims of forced labour and coerced activities, as well as labour exploitation. This will differentiate between victims of human trafficking and exploitation in both the criminal proceedings and the administrative process, also introducing the perspective of gender and age as well as the diversity of victim profiles.</p> <ul style="list-style-type: none"> ► Creation of systems and organisations necessary to provide a network of support and protection to all victims. ► Introduce legal protections for victims with an irregular immigration status. ► Definition of actions and measures for the protection of victims. ► Definition of actions and measures for the support and assistance of victims. 	ALL	Collaborative action: creation of a Working Group	Ministry of Social Rights and Agenda 2030

OBJECTIVE 12.

Actions to improve the coordination, collaboration and cooperation between social interlocutors, specialised NGOs, etc

NUMBER	ACTION	UNITS RESPONSIBLE FOR EXECUTION	TYPE OF ACTION	UNITS RESPONSIBLE FOR COORDINATION
36	Study and establishment of a system for the participation and collaboration of social interlocutors and specialised non-governmental organisations in the fight against forced labour and other coerced activities. Emphasis on the improved detection of cases of forced or compulsory labour and other coerced activities through collaboration with specialised organisations , in line with Instruction 6/2016 of the Secretariate of State Security, and with social interlocutors.	MITES MISSM MINT	Collaborative action	MITES

AREA V. MEASURES FOR INTERNATIONAL COORDINATION AND COOPERATION

OBJECTIVE 13.

Actions to enhance international cooperation to address situations of forced labour

NUMBER	ACTION	UNITS RESPONSIBLE FOR EXECUTION	TYPE OF ACTION	UNITS RESPONSIBLE FOR COORDINATION
37	Intensify the actions of the police and state security services in the area of international cooperation, especially with the countries of origin of victims.	MINT	Individual action	MINT
38	Fostering international coordination a through the Permanent Spanish Representatives, the network of Offices, Adjutants and information centres abroad.	MITES MISSM MINT MAEUEC MJU	Collaborative action	MITES MISSM MINT MAEUEC MJU

OBJECTIVE 13.

Actions to enhance international cooperation to address situations of forced labour

NUMBER	ACTION	UNITS RESPONSIBLE FOR EXECUTION	TYPE OF ACTION	UNITS RESPONSIBLE FOR COORDINATION
39	Reinforcement of international cooperation through INTERPOL, EUROPOL, EUROJUST, FRONTEX, IBER-RED, EUROMED and the Ibero-American Association of Public Ministries and the European Labour Authority for coordinated operations against international networks and to effectively prosecute the recruitment of persons in Spain for the purposes of forced labour relations or coerced activities abroad.	FGE MINT MJU CGPJ	Collaborative action	FGE MINT MJU CGPJ
40	Facilitate and dynamise cooperation between the Labour Inspection Service, law enforcement and the FGE on one hand, and analogous authorities responsible in non-EU states on the other, facilitating mutual legal assistance and the execution of extradition requests. In addition to mechanisms for direct judicial assistance between EU member states and preventive information campaigns in countries of origin.	MJU MITES MINT	Collaborative action	MJU
41	Identification of countries with high rates of immigration to Spain and victims of forced labour , in order to: <ul style="list-style-type: none"> Advance the creation of agreements and projects by Spanish agents in cooperation, including programs for the assisted return with the participation of national and international institutions, NGOs, etc, to prevent re-victimisation. The creation of information campaigns in collaboration with Consulates, Employment, Migration and Social Security departments, especially in countries of origin to prevent cases of forced labour and abusive practices. The inclusion of a specific section aimed at preventing forced labour and other coerced activities for interviews in Consulates abroad for persons hired for any employment in Spain. 	MAEUEC MISSM	Collaborative action	MISSM





NATIONAL

ACTION PLAN AGAINST FORCED LABOUR:

Compulsory labour relations
and other forms of forced labour



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