**ANNEX 01 – Legislative framework Spain**

**3a In addition to legislation relating to contemporary forms of slavery, does your country have any statutory frameworks criminalising the activities of organised criminal groups (e.g. participating, leading/directing, organising or being a member)? If so, please provide details, including statistical information on prosecutions/convictions if available.**

According to Art. 570 bis 1 of the Spanish Criminal Code, a criminal organisation is defined by the following elements:

1°) the plurality of persons,

2°) stability over time,

3°) the distribution of functions among its members,

4°) the criminal purpose, or the repeated commission of offences.

In Spain, there is a specialised prosecutor's office dealing with corruption and organised crime. However, other crimes, such as the crime of trafficking in human beings or the crime of smuggling of migrants, which can be committed by criminal organisations too, fall within the mandate of the prosecutor's office specialized on migration-related crimes,

On the other hand, the Intelligence Centre against Terrorism and Organised Crime (Centro de Inteligencia contra el Terrorismo y el Crimen Organizado) is the body within the Ministry of the Interior in charge of providing figures and statistics on organised crime[[1]](#footnote-1).

**3b. Do the legislative frameworks on contemporary forms of slavery stipulate the involvement of organised criminal group as an aggravating factor increasing penalties?**

Art. 570 bis of the Criminal Code distinguishes between the degree of **participation** in the criminal organisation, and the **seriousness** of the offences committed.

**4. Are confiscated criminal proceeds redistributed to enhance protection and assistance to victims and survivors? Please provide details.**

In accordance with Directive 2014/42/EU, the latest reform of the Criminal Code in 2015 introduced the following three categories in regards to confiscation: non-conviction-based confiscation, extended confiscation, and confiscation of third-party assets. This reform also created the Office for the Recovery and Management of Assets (ORGA)[[2]](#footnote-2), whose function are:

* to locate and recover the proceeds of crime,
* to place them at the disposal of the courts, with a view to their future confiscation, and
* to ensure that, once the corresponding compensation has been paid to the victims, part of the confiscated amounts are returned to society in projects to help victims and fight organised crime.

As organisations specialised in providing comprehensive assistance (including legal assistance) to victims of human trafficking, we are unaware of the overall number of cases in which the confiscation of assets resulting from a proper investigation during criminal proceedings has been used to pay compensation to victims, and/or have been allocated to organizations helping victims and fighting organised crime.

1. Available at: <http://www.interior.gob.es/en/prensa/noticias/-/asset_publisher/GHU8Ap6ztgsg/content/id/2624738> [↑](#footnote-ref-1)
2. Available at: <https://www.mjusticia.gob.es/ca/areas-tematicas/oficina-recuperacion-gestion> [↑](#footnote-ref-2)