

TITLE VII BIS

On trafficking in human beings

Article 177 bis

1. Whoever, using violence, intimidation or deceit, or abusing a situation of superiority or need, or the vulnerability of a national or alien victim, were to induce, transport, transfer, receive or house such a victim for any of the purposes described below, within Spain, from Spain, in transit or with destination therein, shall be convicted of human trafficking and punished with the penalty of five to eight years imprisonment:

- a) Imposing on the victim forced work or services, slavery or practices similar to slavery or servitude or begging;
- b) Sexual exploitation, including pornography;
- c) Extraction of their bodily organs.

2. Even when not resorting to any of the means listed in the preceding Section, the actions stated in the preceding Section shall be deemed human trafficking when perpetrated with minors for the purposes of exploitation.

3. The consent of a victim of human trafficking shall be irrelevant when any of the means stated in Section one of this Article has been resorted to.

4. A higher degree punishment than that foreseen in Section 1 of this Article shall be applied when:

- a) The trafficking puts the victim in serious danger;
- b) The victim is a minor;
- c) The victim is especially vulnerable due to illness, disability or his situation.

Should more than one circumstance concur, the punishment shall be imposed in its upper half.

5. A punishment higher in one degree than that foreseen in Section 1 of this Article shall be imposed, and absolute barring from six to twelve years for those who perpetrate such acts availing themselves of their status as an authority due to being agent or public officer thereof . If any of the circumstances also foreseen in Section 4 of this Article should also concur, the penalties shall be imposed in the upper half.

6. A punishment higher in one degree than foreseen in Section 1 of this Article shall be imposed and special barring from profession, trade, industry or commerce for the time of the sentence, when the offender belongs to an organisation or assembly of more than two persons, even if transitory in nature, which perpetrates such activities. Should any of the circumstances foreseen in Section 4 of this Article concur, the penalties imposed shall be in the upper half. If the circumstance foreseen in Section 5 of this Article concurs, the penalties imposed shall be those stated the upper half thereof.

In the case of the managers, directors or persons in charge of such organisations or assemblies, the upper half of the punishment shall be applied, which may raised to the one immediately above it in degree.

In all cases, the punishment shall be raised to the one immediately above in degree if any of the circumstances foreseen in Section 4 or the circumstance foreseen in Section 5 of this Article concurs.

7. When, pursuant to the terms established in Article 31 bis, a legal person is responsible for the offences described in the Article, the punishment imposed thereon shall be a fine from three to five times the profit obtained. Pursuant to the rules established in Article 66 bis, the Judges and Courts of Law may also impose the penalties established in Sub-Sections b) to g) of Section 7 of Article 33.

8. Provocation, conspiracy and solicitation to commit the offence of trafficking in human beings shall be punished with the penalty lower by one or two degrees to that of the relevant offence.

9. In all cases, the penalties foreseen in this Article shall be imposed without prejudice to the relevant one, as appropriate, for the offence of Article 318 bis of this Code and other offences effectively committed, including those related to the relevant exploitation.

10. Sentences by foreign Judges or Courts of Law for offences of the same kind as those foreseen in this Article shall have the effect of recidivism, except if the criminal record has been cancelled or may be, pursuant to Spanish Law.

11. Without prejudice to application of the general rules of this Code, the victims of trafficking in human beings shall be exempt of punishment for the criminal offences that might have been committed while suffering exploitation, as long as participation therein has been a direct consequence of the situation of violence, intimidation, deceit or abuse to which they may have been subjected to and provided there is an adequate proportionality between that situation and the criminal act perpetrated.