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MISSION REPORT AND RECOMMENDATIONS

following the fact-finding visit to Spain from 22 to 23 May 2017

Committee on Petitions

Members of the mission:

Jude Kirton-Darling	(S&D) (Leader of the mission)
Julia Pitera	(EPP)
Michela Giuffrida	(S&D)
Tatjana Ždanoka and Eleonora Evi	(Greens/EFA) (EFDD)

Accompanying Member:

Rosa Estaràs Ferragut	(EPP)
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Objective

The objective of the fact-finding mission to Spain was to meet the petitioners from Petitions 1013/2012, 1201/2012, 1209/2012, 1323/2012, 1368/2012, 1369/2012, 1631/2012, 1790/2012, 1772/2012, 1779/2012, 927/2013 and 758/2013, and to begin a dialogue with the national authorities to gain a better understanding of the different aspects of the petitioners' claims that new-born babies were abducted from hospitals during and after the Franco dictatorship.

Thefts and illegal adoptions are covered by areas of civil and criminal law that are not governed by EU law. Current EU law (specifically Regulation (EC) No 2201/2003 ('Brussels IIa')) only governs issues of legal jurisdiction, recognition and enforcement of existing judgments in other Member States.

In the cases put forward by the petitioners it is therefore for Member States to ensure that they meet their obligations regarding fundamental rights – as resulting from international agreements and their own domestic legislation.

Meeting with the Ministry of Justice (22 May 2017)

Ms Carmen Sánchez-Cortés Martín, Secretary of State

Mr Joaquín Delgado Martín, Director-General of Relations with the Justice System (Administración de Justicia)

Ms Carmen Troya Calatayud, Coordinator of the Information Service for those affected by the possible abduction of new-born babies. Legal Secretary (Justice System)

Mr Antonio Alonso Alonso, Biology Service expert at the Madrid branch of the National Institute for Toxicology and Forensic Science (INTCF)

The delegation was welcomed by Carmen Sánchez-Cortés Martín, Secretary of State, who stated that the Ministry of Justice's fundamental objective in the case of the abduction of new-born babies was to try to provide the best institutional support possible to those affected. It wanted to find realistic and practical solutions to support the investigations that those affected have begun in an attempt to find their relatives, without prejudice to the clarification of events and any criminal or other liabilities that derive from them.

The events that determined the Justice System's involvement in investigations into the possible abduction of new-born babies, and which led to measures being put in place to support those affected, arose from the claims made by associations for those affected by a possible plot to traffic new-born babies illegally, primarily between the 1960s and 1980s.

Once the background and requisite information had been compiled, the Ministry invited the associations and those affected to a meeting, as requested, in order to hear their demands and initially identify the issues that they were facing, with the aim of finding ways to resolve them. An initial meeting was held at the Ministry of Justice in February 2012 with the associations and those affected who had called for a meeting to be held. At the meeting they described the different issues that they were facing in their investigation of events. The

Ministry committed to starting an ongoing and stable collaboration with those affected and agreed to hold regular meetings.

The Ministry also confirmed the need to strengthen the means of collaboration between different public authorities:

- It contacted the Ministry of the Interior to look into whether the state law enforcement bodies could take effective action in the investigation of the claims.
- It contacted the Public Prosecutor's Office (Fiscalía General del Estado) to ask it to assess the viability of issuing a general instruction to all public prosecutors, laying down standardised procedural guidelines for these cases, guidelines which would be primarily designed to provide victims with the best possible support.
- It contacted the Spanish Data Protection Agency to convey the specific difficulties that those affected were facing in accessing information held in different files and registers (hospital records, civil registers, and so on).
- It spoke to the Ministry of Health, Social Services and Equality to look into ways of collaborating on the matter in view of the implications that the case has for the work carried out in clinics and hospitals.
- The Ministry of Justice has also given instructions to the bodies that are under its own jurisdiction: the National Institute for Toxicology and Forensic Science (INTCF) and Victim Support Offices.

At the first meeting with those affected, the Ministry of Justice confirmed that the criminal route was being pursued in many of the cases, but that this would not fully satisfy their interests because, notwithstanding the criminal and administrative consequences that might derive from the events, the main priority for those affected was to find their relatives. It was therefore necessary to focus efforts on creating mechanisms that would help the investigation as much as possible. It was decided that a 'Guidance and Administrative Information Service for those affected by the theft of new-born babies' should be made available. To ensure that the Service, which came into operation on 26 February 2013, was up to the task, an Office was created at Calle de la Bolsa, 8, in Madrid, where the daily service is delivered by officials who are responsible for processing records and providing support to those affected. The Service has an internal protocol, which was drawn up specifically for it, and a dedicated IT application for recording information.

The purpose of the Service is to provide those affected with any documentation that the Justice System may have on childbirths or deliveries that is held in civil registers or by cemeteries, hospitals, archbishoprics, provincial councils, town halls, and so on, along with factual information. The idea is to enable those affected to use it as a basis for the civil or criminal proceedings that they deem appropriate to determine their blood relationship. The Office provides the consent needed to send information on childbirths or deliveries to the Ministry of Health, Social Security and Equality so that it can be crosschecked against that held in clinical records or other documents that health centres keep. The Ministry of the Interior works closely with the Information Service through its citizen complaints and support offices across the country. Each of the institutions working together on the matter appointed a lead, the point of contact, tasked with collating the information held by the different organisations, depending on their area of competence, with the aim of compiling the information and documentation on each specific case.

The data and documentation are accessed in accordance with the legal requirements on matters such as consent from the person concerned, data security, confidentiality of information and the responsibility of the public authorities. No data will be collected, either directly or indirectly, on the person concerned without their free, express and informed consent, in accordance with the relevant, current national legislation.

To enable all the information collected to be properly managed, two files were created under Order JUS 2146/2012 of 1 October:

- File 119: Requests for the provision of administrative information from individuals affected by the abduction of new-born babies.
- File 120: DNA profiles of individuals affected by the abduction of new-born babies.

Official application templates were approved to ensure that the victims provided the technical and identification data needed to obtain the information and documentation, along with the data required to produce the INTCF's report. The INTFC established a procedural protocol to centralise the genetic profiles acquired so that they could be included in a single database that collates all the individuals involved with the aim of verifying any genetic matches.

In view of the complex judicial processes, which can be difficult for many people to understand, and in response to social concern, the Ministry of Justice decided that it was necessary to provide the individuals affected with every available means to give them a point of reference that they could contact for information, advice and proper support, including psychological support.

A special care protocol was drawn up for cases of irregular adoptions to be applied by the Victim Support Offices that report to the ministerial department dealing with the matter. The protocol is also available to the Victim Support Offices in regions where competences have been transferred to the Autonomous Communities.

Procedural agents or, when necessary, psychologists provide personalised and skilled care through Victim Support Offices. They provide general information about the procedure for taking legal action, carrying out DNA tests, and the possibility of accompaniment to court. Psychological care is also offered to individuals affected who need it, at various stages, in accordance with the Offices' general support model.

What does the Service offer?

- Administrative information and documentation: The service helps the victims to access documentation and information held by the Justice System and institutions, including registry data, health records, and so on.
- Creation of a genetic profiles file: The INTCF will centralise the profiles obtained from the genetic reports provided by those affected or from electronic files obtained by non-INTCF laboratories in order to include them in a single database that collates all the individuals involved to check for any genetic matches that could indicate biological family relationships (a procedure with no cost to the person affected).

Who can access the Information Service and how?

Individuals who have evidence of possible alleged abductions of new-born babies, including parents who are looking for their biological children, children who are looking for their biological parents, siblings looking for their biological brothers and sisters, and people who can prove a legitimate interest. All the information on the operation and purposes of the Service and how to access it can be found on the Ministry of Justice's website. Information can be requested in several ways: face-to-face, by telephone or using the office's telematic contact form via the link on the Ministry of Justice's website.

Once the request has been submitted, the appropriate offices are contacted with a request for any information and documentation that might exist in each case, through the point of contact appointed by each of the parties to the collaboration agreement. Another important function of the Information Service is to manage the inclusion in the INTCF's database of DNA profiles provided by the victim and obtained from private laboratories. Before they are included, the INTCF will determine whether the analysis carried out meets the minimum technical requirements to guarantee reliability.

After the request has been submitted, the administrative record is opened, data is recorded in the IT application and the documentation provided by the victims is scanned. Those affected can monitor their record by accessing it with a username and password provided by the Service, and can even print the documentation that is included in it. It is important to note that opening an administrative record does not initiate any civil or criminal judicial proceedings, and those affected are informed of that. The administrative Service is intended to enable information to be gathered so that the person affected can take legal action if they wish to, after seeing the information. Although the report may be used as evidence, it does not in itself have any legal effect. The victims will initiate legal action, if they deem to be appropriate, after seeing its contents.

The Ministry committed to work with those affected and agreed to appoint a single intermediary at the Ministry of Justice to be their point of contact, with the aim of creating functional and effective lines of communication.

Information Service statistics from 26 February 2013 to 30 April 2017:

- 567 records concerning 693 individuals have been opened.
- Most of the births in alleged cases of abduction of new-born babies that were made known to the Information Service took place in the 1960s and 1970s.
- Most of the requests that have led to records being opened were submitted by those affected through the Information Service or national police branches.

The National Institute of Toxicology and Forensic Sciences (INTCF) presented a report¹ showing the overall DNA results obtained from exhumed bone remains and other post-mortem tissues (biopsies) of newborns in a total of 128 cases in which there were indications

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http://www.mjusticia.gob.es/cs/Satellite/Portal/1292428503682?blobheader=application%2Fpdf&blobheaderna me1=Content-Disposition&blobheadername2=Grupo&blobheadervalue1=attachment%3B+filename%3DInforme_de_la_actividad_pericial_y_cientifica_desarrollada_por_los_servicios_de_biologia_del_INTCF_.PDF&blobheadervalue2=INTCF

of the abduction of a newborn, in response to 76 requests for DNA investigation from the Public Prosecutor's Office and 52 requests from Courts of Instruction in the period 2011-2017. The data from the DNA report indicate that the majority of the cases analysed by the INTCF do not correspond to cases of abduction of newborns, since it has been possible to verify in 90% of the cases the identification of the newborn through DNA tests with their relatives.

The Ministry of Justice concludes that it has addressed the problem of alleged cases of abduction of new-born babies by opening a channel for obtaining documentation and information, and by offering victims the opportunity to include their genetic profiles in the INTCF's database. However, in no case has it sought to replace the role of judges and courts in the judicial system.

The following MEPs asked questions:

- Jude Kirton Darling on the support that the Ministry offers victims who have to provide evidence of the crime.
- Eleonora Evi on the recommendations of the 2014 UN Working Group on Enforced or Involuntary Disappearances, and on the statute of limitations for the crime.
- Michela Giuffrida on the support service's attitude to the victims, which should perhaps be more human and less administrative.
- Julia Pitera asked about the difference between the cases reported by the associations and those submitted through the Ministry's service.
- Tatjana Zdanoka asked why the justice system had taken so long to respond and why only one person is currently being prosecuted.
- Marina Albiol on the need to urge the Public Prosecutor's Office to investigate the cases of disappearances and create a coordinating public prosecutor, for DNA tests to be free, and for the disappearances of children in the 1940s and 1950s to be investigated. And if they were aware of how the previous Argentinian government dealt with similar cases.
- Josep-Maria Terricabras on the need to respond more proactively to victims and investigate the cases properly, suggesting that the first test should not be exhumation, but hospital based investigations.
- Rosa Estarás on the importance of fulfilling the victims' wishes, and the need for a meeting with the Ministry of the Interior, Ministry of Health and representatives of the Autonomous Communities.

The Ministry's representative, Mr Joaquín Delgado, responded to the MEPs:

- To Ms Kirton Darling: he clarified that the public prosecutor's office that initiates criminal proceedings was responsible for investigating the cases. Individuals take civil action and are responsible for submitting the claim. The Ministry of Justice helps them by finding and providing documentation.
- To Ms Eleonora Evi: on the statute of limitations for the crime, he clarified that the crimes involving the disappearing of minors are not subject to a statute of limitations but it depends on the courts and there is no unified standard. No reply was given relating to the 2014 UN working group.

- To Ms Michela Giuffrida, he confirmed that the Ministry was fully committed to guiding and advising the victims and people affected.
- He reminded Ms Marina Albiol that when a case in which all investigative routes have been exhausted is archived, it can always be reopened. The Public Prosecutor's Office has a mandate to institute proceedings and has been urged to investigate, and DNA tests requested by public prosecutors are free. Relating to the Argentinian case he replied that he knew nothing about it.

Meeting with the Public Prosecutor's Office (22 May 2017)

Mr José Manuel Maza Martín, Public Prosecutor

Mr José Miguel de la Rosa Cortina, Public Prosecutor, Head Office of the Technical Secretariat of the Public Prosecutor's Office

Ms María Luzón Cánovas, Public Prosecutor at the Technical Secretariat of the Public Prosecutor's Office

Article 124 of the 1978 Spanish Constitution directly mandates the Public Prosecutor's Office to promote justice in the defence of the rule of law, of citizens' rights and of the public interest as safeguarded by law, whether on its own initiative or at the request of those concerned, subject in all cases to the principles of the rule of law and impartiality.

On the basis of that constitutional position, the national association for people affected by irregular adoption (ANADIR) submitted a claim signed by 261 people to the Public Prosecutor's Office in January 2011. The Public Prosecutor's Office committed to providing a response to all the families who had lost a new-born baby and raised the question of whether the new-born could have been replaced by another that was dead, or whether the child that they were told had died was, in fact, abducted. The joint claim suggested that there was a systematic network that operated primarily from 1950 to 1990 to abduct new-born babies and register them as the children of other couples. The Public Prosecutor's Office studied the reported events and found no evidence to suggest the existence of an organisation designed for that purpose. The events reported took place in maternity units and hospitals across Spain, with different healthcare teams and involving mothers from a very wide range of social classes and family circumstances, including first-time mothers, married or single mothers, and mothers with several previous children. In view of the lack of evidence that the reported thefts were carried out systematically, the Public Prosecutor's Office believed that the best way of approaching the claim was to study each of the reported cases individually, using the place where the mother gave birth as the standard for determining the jurisdiction. Each public prosecutor's office in Spain was therefore sent the claims that concerned births in their territory. That enabled each public prosecutor's office to examine every event in detail, compiling clinical records from hospitals, birth and death registers, and documentation from provincial archives and cemeteries, and conducting procedures, when the remains allowed it, to collect samples for the INTCF to do a comparative DNA test and analysis to establish a blood relationship. Other new claims were submitted to regional public prosecutor's offices in addition to the initial claims, and a member of the Public Prosecutor's technical secretariat was specifically appointed to centralise and coordinate the work of the different offices.

To coordinate and clarify each of the events reported in 2012, the Public Prosecutor's Office issued a Circular (2/2012) on unifying criteria in proceedings concerning the theft of new-born minors. The Circular lays down criteria to unify the way in which all public prosecutors must investigate the claims, with regard to both the public prosecutor's investigative procedures and judicial proceedings. The Circular's main premise is the obligation to investigate the reported events, regardless of the future application of statutory limitations to acts that may have been committed. The intention is therefore to clarify what really happened regardless of the legal viability of the claim. For the events to be investigated and brought to trial, the Public Prosecutor's Office has established a statute of limitations standard: the crime of illegal detention is an ongoing crime (which is understood as being committed as long as the illicit situation continues) and a statute of limitations does not begin while the passive subject of the illegal detention remains unaware that they have been the victim of abduction, as the illicit situation still exists.

However, the courts that had addressed the issue of the statute of limitations of the crime had not resolved the matter unequivocally. Some courts followed the suggestion of the Public Prosecutor's Office's, but others laid down that, where the victim was a minor, the terms would be calculated from the day that they became an adult and, if they died before that, from the date of death.

The Public Prosecutor's Office carried out work in three areas:

- Public Prosecutor's Office investigative procedures
- Leading the instruction of judicial proceedings
- In the Committee for Monitoring and Control of the Collaboration Agreement between the Ministry of Justice, Ministry of the Interior, Ministry of Health and Public Prosecutor's Office on the work of the information service for people affected by the possible abduction of new-born babies (signed on 26 February 2013), which last met on 24 March 2017.

Since ANADIR submitted the first joint claim in January 2011, the number of claims has decreased. In 2011, 1 346 claims were made which led to a number of other investigative procedures by the Public Prosecutor. With regard to subsequent years, 463 were made in 2012, 165 in 2013, 79 in 2014, 26 in 2015, 13 in 2016 and 3 in 2017. Of the total 2 095 proceedings initiated between 2011 and 2017, around 25% (522) led to the Public Prosecutor submitting claims to judicial bodies to begin the relevant judicial proceedings, with the rest being archived at the Public Prosecutor's Office, except for three which are still being investigated.

With regard to the petitions that are the subject of this report, six of them (1201/2012, 1209/2012, 1368/2012, 1369/2012, 1772/2012) were claims submitted to the Public Prosecutor's Office, leading to a number of investigative procedures being initiated. They were eventually archived, unfortunately without it being possible to clarify events completely and without confirmation of whether the claimants will present a subsequent claim to the court.

Petition 1013/2012 was also reported to the Public Prosecutor's Office and resulted in a claim from the Public Prosecutor's Office itself before the Court of Instruction in Granada. However, the case was eventually thrown out when the INTCF ruled that there was a 99.9%

probability that the claimant was biologically related to the baby in question in the comparative DNA test of the remains.

Three petitions (1323/2012, 1631/2012 and 758/2013) do not relate to claims made before the Public Prosecutor's Office, although there is proof that a claim was submitted before the Court of Instruction in Granada for the first two. For petition 758/2013, however, the Public Prosecutor's Office has no knowledge of the exact events and the case is not going to court. The investigations were carried out by the British police.

Despite the work by the Public Prosecutor's Office, the investigations had not managed to determine the truth of the reported events with the certainty and rigour required under criminal law, and it had not been possible to charge the people involved, some of whom were already dead. The Public Prosecutor's Office was carrying out its work with the commitment to provide a response to all the cases, even if it was not always satisfactory. An example of this was the charge brought by the Madrid Public Prosecutor's Office in the capital's Court 46, in which a gynaecologist was accused of illegal detention, simulating childbirth and falsifying official documents.

The Public Prosecutor's Office was aware of the claimants' frustration that without a conclusive response, they could not eliminate beyond all doubt the suspicions upon which their claims were based. But the Public Prosecutor's Office has also ruled out the existence of a plot or any organisation for the trafficking of new-born babies.

The following MEPs asked questions:

- Jude Kirton Darling on creating a special public prosecutor to be in charge of these cases and whether the prosecutors were aware of the particular case of petitioner Ruth Appleby (0758/13), saying it was raised in Interpol which requested information from the Spanish authorities. The response of the Public Prosecutor was that it had been agreed that the cases would be sent to the relevant public prosecutor's offices for investigation and that a coordinating public prosecutor would supervise the investigations. The coordinating public prosecutor was Ms Maria Luzón. Circular 2/2012 gave the public prosecutors a procedural module with instructions to exhaust all investigative possibilities and consider the cases as illegal detentions, which was the most serious offence and not time-barred. There were two specialists on the subject at each public prosecutor's office. Ms Maria Luzon responded that they had no information about the Appleby case. The case did not come to Spanish authorities as it was a UK police investigation with the support of the Spanish police.

- Michela Giuffrida asked how criminal action was taken, how it was possible that 70% of the outstanding suspected cases were concentrated in one clinic in Madrid, and whether the motivation for the crimes was financial or ideological. The Public Prosecutor's Office's response was that it acted on its own initiative to open investigative proceedings when it became aware of criminal offences. The public prosecutor recalled that the crimes had taken place in a specific period of 20th-century history, immediately following the civil war, during the Franco dictatorship, and under democratic governments, but that it was difficult to know whether they were ideologically motivated, as they happened during the era that straddled dictatorship and democracy, and affected all levels of society. It was impossible without further evidence to conclude whether they were crimes against humanity, war crimes or very

serious, financially motivated crimes of illegal detention. He confirmed that there was a high concentration of claims at the San Ramón de Madrid clinic.

- Eleonora Evi, asked when Spain will implement the Recommendations on the UN Working Group on Enforced or Involuntary Disappearances and whether it intends to categorize the crimes of child theft as war crimes or crimes against humanity in the penal code. Maria Luzon replied that these crimes are categorized as the most serious crimes, as illegal detention and therefore are imprescriptible; this is reflected in the Unit of action of the prosecutor, the unification of criteria is reflected in circular 2/2012. The Attorney General of the state replied that it is not the responsibility of the Prosecutor's Office to ratify international conventions but the responsibility of Government.
- Julia Pitera asked how many actions the prosecutor has carried out in this matter, how many on his own initiative and how many have come to an end. Maria Luzon replied that 2095 complaints have been filed since 2011, of which 25% have been referred to the judicial body, but many times the investigations have been unable to conclude due to lack of evidence.
- Tatjana Zdanoka. said that the first petitions on stolen babies reached the EP in 2007 and that the current FFV is the result of these petitions, she thinks that the prosecution's actions arrive late and wants to know the chronology of prosecution claims, the answer is that the first complaint to the Prosecutor's Office was in 2011 by ANADIR (which gathers the complaints of 261 people)

Meeting with the Deputy Ombudsman (22 May 2017)

Ms Concepció Ferrer, Deputy Ombudsman.

Ms Marta Kindelan Bustelo, Head of the Deputy Ombudsman's Private Office

Mr Andrés Jiménez, Head of Security and Justice

Concepcio Ferrer, the Deputy Ombudsman, welcomed the delegation and gave a brief introduction explaining what she believed to be the causes of the crimes. According to the Deputy Ombudsman, there were two causes following the Civil War: the political purge that sought to cleanse society and the moral purge that was intended to make families conform to the national Catholicism of the time, which did not allow single mothers. But according to Ms Ferrer, purely financial causes could not be discarded either.

Ms Kindelan and Mr Andrés Jiménez set out the Public Ombudsman's procedures on the issue of the so-called 'stolen babies'.

In accordance with the Spanish Constitution (Article 54), the Public Ombudsman was the Parliamentary High Commission for the defence of fundamental rights (set out in Title I). It supervised the work of the public authorities. It acted on its own initiative or when it received complaints from citizens. The Public Ombudsman became aware of the issue of so-called 'stolen babies' when it began to receive complaints in late 2010. It had received between late

2010 and 2013 more than 300 complaints from people affected. The complaints requested help with pushing for investigations and concerned the presumed abduction of new-born children or babies, without the consent of their biological parents. After they were abducted, the babies were then handed over to third parties who registered them as their own. The biological parents were falsely informed that their child had died without giving them a proper explanation and without letting them see the supposedly dead baby. The Public Ombudsman could not give a statement on any specific matter that had been brought before the judges and courts of justice, as the Constitution (Article 117) ascribes the function of making and enforcing judgments exclusively to the judges and courts of justice. The law that governs the Public Ombudsman therefore prevents it from individually examining matters on which a judgment is pending. However, the Ombudsman can investigate the overall issues raised in the complaints (Article 17.1 of Organic Law 3/1981) and questions concerning the delays in judicial proceedings. This means that the Public Ombudsman can ensure that judicial proceedings are resolved without undue delays and look into general issues, but may not make statements on any specific aspect of judicial proceedings or decisions of the judge or court.

The Public Ombudsman accepted the complaints and took two forms of action. One was to promote the public authorities' activity in this area (Ministry of Justice and the Public Prosecutor's Office). The other was to verify the correct procedures in individual cases (Public Prosecutor's Office and General Police Headquarters). It must be remembered that, at the time (late 2010), the issue had barely come to the attention of the public in Spain. It had been necessary to persuade the Justice System and the Public Prosecutor's Office of the need to take general measures that went beyond addressing individual cases, given the severity of the events reported, the fundamental rights allegedly violated and the high number of people potentially affected. The Public Ombudsman conveyed its utmost interest in the investigation of events to the state Justice Secretariat, along with the opinion that there should be an overall response to the issue through a set of measures to be adopted by the Ministry of Justice and other departments and authorities, without prejudice to the specific legal action that might be brought. In parallel, the Public Ombudsman considered it appropriate to ask the Public Prosecutor's Office for a report on the handling of claims from those affected, the number of proceedings initiated and the stage that they had reached. It also looked into hundreds of police procedures to verify that investigations had been carried out. The purpose of the Ombudsman's procedures with regard to the Ministry, Public Prosecutor's Office and General Police Headquarters was to ensure that those affected did not face added difficulties in their search and inquiries into alleged cases of 'stolen babies'.

In 2012, the Ministry of Justice created the Information Service for those affected by the possible theft of new-born babies (which helps potential victims to access documentation and information about their natural parentage held by the Justice System, along with registry data and health records). It also approved Order JUS/2146/2012 of 1 October, which created specific files for personal data concerning possible thefts of new-born babies and approved the official templates for requesting information. Two files were created: one contains requests for administrative information from people affected by the theft of new-born babies; the other contains DNA profiles. Since then, the INTCF has been accessible to individuals with no need for a prior judicial requirement, and it centralises the profiles obtained through genetic reports provided by those affected so that they can be incorporated into a single database. A procedural guide has also been produced for forensic doctors in case new-born babies have to be exhumed, so that it can be done with the utmost technical rigour. The Public

Prosecutor's Office also approved Circular 2/2012 of 26 December 2012, which unified the criteria for proceedings concerning the theft of new-born babies.

There was a clear decline in the number of complaints received by the Public Ombudsman from that moment on, and no more complaints were submitted after 2014. The Public Ombudsman informed all citizens who submitted complaints to of their rights and the information provided by the authorities, both in general and with regard to their specific case.

The Public Ombudsman's position on this serious matter can be summarised in two points:

- 1) People deprived of their family environment reserve the inalienable right to know their biological origins. Those people and their direct relatives also have the right to a family life.
- 2) The fact that their prospects in the criminal system have been frustrated for the time being as a result of a lack of evidence, difficulty in obtaining evidence or other reasons in no way means that there is no possibility of finding the truth or redress.
- 3) Public prosecutors and judges are obliged to provide a copy of the archived decree and clinical history if requested by those concerned and their relatives.
- 4) In the event that new evidence comes to light, the cases may be reopened, on the Ombudsman's own initiative or a party's request, including in the criminal system.
- 5) Even in cases where criminal action is not possible owing to the passage of time (statute of limitations), there are still three possible civil actions:
 - a) Claiming a blood relationship (Article 131 and subsections of the Civil Code).
 - b) Challenging a false blood relationship (Article 136 and subsections).
 - c) Civil liability for moral damages (1902 of the Civil Code).
- 6) As many new measures as required must be adopted to pave the way for the best possible defence of the victims' rights.

The Public Ombudsman has recently initiated proceedings on its own initiative before all the Autonomous Communities. They concern the possibility of creating document-monitoring committees to investigate the whereabouts of the record books of public and private hospitals and maternity units, and the adoption logs of the defunct provincial board for the Protection of Minors and records of the Trust for the Protection of Women. The investigation could be vital in locating those who were allegedly registered as the children of other people or who were given up for adoption without the consent of their biological parents.

The following MEPs asked questions:

- Jude Kirton Darling on accessing the information in the files, whether public or private. The response was that the Ombudsman had access to all the public archives but the private archives were outside its remit.
- Ms Julia Pitera and Ms Tatjana Zdanoka asked why the cases came to light in 2011. The response was that civil society had been mobilised by investigation of the cases by the press

and a series of articles that had been published. Public awareness flourished in society during those years thanks to the press.

- Ms Eleonora Evi wanted to know who appointed the Public Ombudsman, what deadlines it had to respond to complaints from citizens and whether there was a national plan for human rights or for the victims of child theft. The Deputy Ombudsman explained that the Ombudsman was elected by 3/5s of the Congress of Deputies, so it was an independent figure. The national plan was a Government competence and was being developed at the time. There were no official Ombudsman deadlines, but it set its own deadline of 30 days.
- Josep-Maria Terricabras asked whether the Public Ombudsman had acted on its own initiative in the San Ramón de Madrid clinic cases. The Ombudsman responded that it could only say that 300 complaints had been received.
- Marina Albiol asked how the cases were assessed and whether it was thought that a criminal network with a systematic plan existed, or simply isolated cases. She also brought up access to the archives and asked what recommendations the Public Ombudsman had made. The Deputy Ombudsman pointed out that an Information Service had been created to provide access to records and stated that, in some places, they could have been systematic crimes rather than isolated cases (referring to the Public Ombudsman's 2011, 2012 and 2013 annual reports).
- Ms Rosa Estarás pointed out that, on the basis of what the Public Ombudsman had said, it could be concluded that there had been no ideological motives for committing the crimes and that no network had existed.

Meeting with doctors, experts and journalists (23 May 2017)

- Dr José Antonio Lorente, professor at the University of Granada, and Dr Tomás Cobo, Spanish Medical Colleges Organisation. DNA ProKids and DNA-ProOrgan presentation

Dr Lorente presented the international DNA-Prokids programme, which uses human genetic identification technologies (DNA analysis) to identify children who have disappeared by carrying out DNA tests and creating independent databases of:

- Children who disappeared while under the protection of orphanages, NGOs or other organisations for people who do not know their family.
- Relatives of the disappeared: parents and grandparents who have reported the disappearance of a child in their care.

DNA tests are also done in adoption cases to ensure that the mother who is giving their child up for adoption is the real biological mother. There have been cases of children being stolen and given up for adoption with the explanation that they came from poor families and that their presumed mothers received money to support the rest of the family. Identifying the children could put an end to the trafficking and crimes involving children and illegal adoptions. Thanks to DNA tests, a lost child can find their family, as demonstrated in Guatemala, where 500 children have been reunited with their relatives. The programme,

created by the University of Granada in collaboration with the University of Texas, is publicly funded by the Spanish Government and by several private foundations. As a humanitarian programme, its services are free.

Dr Cobo presented the DNA-Pro-Organ programme. The programme is similar to the DNA-Prokids programme and has set up several databases to make it possible to trace organs by checking the donor's genes. There is an organ donor database, an organ recipient database, a transplanted organs database and a trafficked or stolen organs database. The programme is intended to put an end to organ trafficking and to ensure that criminal traffickers do not go unpunished as a result of it being impossible to prove an organ's origin.

- Mr Vila Torres, lawyer and director at Bufetevila Abogados & Asociados

Mr Vila Torres described the real unease that the victims felt and gave a brief summary of the situation, which began with a joint claim by the victims before the Public Prosecutor's Office in 2011. The Public Prosecutor's Office has taken public action by receiving the claims but, according to Mr Vila Torres, the investigations are superficial and cases are archived by judges. The first prosecution is the case of Dr Eduardo Vela, who will be tried in January 2018. Mr Vila Torres thinks that the reason for the mass archiving of cases should be investigated. He also explained that the judiciary has no unanimous or unified standard on the statute of limitations of the crime, which is unfair to the victims. The person affected must bear the cost of investigating their case and not all the families can afford to do that. When cases are provisionally archived until new evidence comes to light, they remain open and are not technically closed. Mr Vila Torres thinks that little investigation has been done, and what has been done has been poor.

He called for judicial proceedings to be free, for statute of limitations criteria to be unified at judiciary level, for pressure to be put on the Vatican to attend to the victims, for the Ministry of Justice's Information Office to be given powers of coercion when requesting documentation from the different parties, for DNA tests to be free for those affected, for there to be recognition of the context of the civil war and the subsequent rule of Franco in the implementation of this policy, and for the religious orders that attended to mothers in their hospitals to provide access to their archives.

He said that the Catholic Church did have a part in the mafia of selling babies, similar to the Magdalene sisters in Ireland. He said thousands of pts changed hands but the Church doesn't want this uncovered. They've sent lots of letter to the Vatican but never received replies.

He also mentioned in relation to the statute of limitations, that 'even if the father gives evidence that they bought the baby, the public prosecutor doesn't bring him to court' and that leaving a case open (filing away) is a legal trap in Spain, by leaving it open, one can't be accused of wrongdoing.

- Ms Ana María Pascual, journalist, Interviú magazine

Ana Maria Pascual is an investigative journalist with Interviú magazine and has been investigating cases of stolen children for six years. She knows a number of victims: mothers and fathers whose children were declared dead when they were born; siblings looking for a brother or sister that supposedly died, and people whose adoptions were not legal under the legislation in effect at the time. All that the people affected want is to find their loved ones.

However, public bodies, from the Spanish Government and many of the Autonomous Communities to the judicial system and the Catholic Church, are not making it easy for them. On the contrary: cases are not being resolved because of the Justice System's disinterest and flagrant obstructions by the public authorities.

Ms Pascual gave a summary of what the theft of babies in Spain involved. An ideological aspect is at the root of it. Having just won the Civil War, the Franco regime passed laws enabling the identity of the children of republican families to be erased. In 1940, charitable institutions run by religious congregations were made the legal guardians of the children of prisoners and people who had been executed or exiled. The following year, any child whose parents had not been found because they were in prison or a mass grave was newly registered in the Civil Register with a different identity and handed over to families who supported the dictatorship. Thousands of children were separated by force from their families, who had lost the war. Under the excuse of helping widows, their children were sent to charitable centres where they were indoctrinated into the new fascist state. Many of the children who were under the protection of religious orders and priests were stolen and had their identities changed, and their mothers never found them.

To prevent clandestine abortions, the Franco regime supported 'secret childbirth', which enabled women who could not look after their children for reasons of extreme poverty, or because they were single (the main ideological impediment to motherhood during the dictatorship), to give birth in maternity units, but their names would not appear on their child's birth certificate. The children went straight to homes for abandoned children or orphanages, where they were given up for adoption. The trap was set by law: secret childbirth was the perfect cover for stealing babies belonging to single mothers. Today, we have testimonies from women whose new-born babies were literally snatched for the simple reason that they were unmarried: the people in charge of maternity units decided which women did not have the right to be a mother. Secret childbirth was in effect in Spain until 1999.

The historical context explains what happened in Spanish maternity units from the 1950s, when giving birth in hospital was becoming the norm. But there is another profile of the person reporting the theft of babies: married couples. Ideology combined with profit created a business: when some doctors, nuns, officials and priests realised that nothing would happen if they faked the death of a baby because they were protected by the regime, the theft of babies began to become official practice, although it remained hidden. Children who were recorded as having died were handed over to sterile married couples who wanted to be parents, in exchange for a large amount of money. In some cases, the figure was similar to the price of a flat. In others, the families paid in instalments for their new child, who appeared on the Civil Register as their own biological child.

The main sources of investigation for the claimants are maternity-unit record books. Spanish legislation outlaws health centres from destroying those books, unlike clinical records, which can be discarded after five years. Even so, some public and private centres reported for the theft of babies maintain that they do not know where their record books are. No judge has ordered the police to register those hospitals. The record books contain all the basic details needed to search for stolen children: the dates that the mothers were admitted, their age, number of children, allocated room number, date of the childbirth, whether the baby needed to be put in an incubator, date of discharge, and so on.

The documentation provided by public institutions, such as the Ministry of Justice's Information Service for those affected by the possible theft of new-born babies, is completely unusable. That is because all the names of the women who gave birth at a certain time are crossed out except for the person concerned, in accordance with Law 15/1999 on Data Protection, which is an insurmountable obstacle. Investigations are impossible under those circumstances. We know that when a baby was falsely declared to be dead, the child was often assigned to another woman. That woman was usually over the age of 40 with no other children but was supposedly pregnant, and was registered at the hospital to legalise her maternity. It would presumably be enough to investigate those women and their children, who are now adults, in order to resolve some of the cases of stolen children. Barely a handful of victims are doing so, having managed to acquire that documentation in its entirety, without deletions, as the result of an oversight or cooperative judges. For that search to be effective and carry guarantees, it would have to be instigated by judges. Another of the investigative sources to which those affected and investigators have been denied access are the archives of the now defunct Trust for the Protection of Women and Project for the Protection of Minors, which were recently discovered following press investigation. Those two institutions, which disappeared in 1984, reported to the Ministry of Justice and were responsible for re-educating rebellious women, single mothers and minors from problematic families. The archives are now kept in the basements of the Ministry of Employment and Social Security. Those archives cannot be accessed freely or directly as they contain personal data. They are not at all useful unless they can be seen in their entirety. We know that some of the stolen children became part of the adoption market and that the Trust for the Protection of Women sent pregnant girls into the plot network. The files contain very valuable information that will enable data on dead new-born babies to be crosschecked with new-born babies registered at the same time with the Project for the Protection of Minors. The Spanish Parliament should amend the law so that the claimants can collate data.

It is surprising that of the 3 000 claims that have been made since 2011, only one of them has been successful. It is the case accusing the gynaecologist Eduardo Vela, who is one of the names mentioned most in relation to the stolen-children plot and who also happened to be a paid partner of the Trust for the Protection of Women. He will be the first person under investigation to sit in the dock after acknowledging that his signature was on the birth certificate of a girl born in 1969. The document claims that the girl is the biological daughter of a woman whom Doctor Vela attended to during childbirth. But that woman was sterile. She was never pregnant.

The hearing of the cases has been long and yielded little. Either the judges have not found evidence of a crime or they have not found the person to be held responsible. There is a clear lack of investigative initiative by public prosecutors and judges in general. It is the claimants who have asked the court to make inquiries. However, in a few cases, the judge has ordered the police to carry out a cursory investigation. In some of the summaries that I have managed to look into, the police have not investigated properly and have only provided the court with the names of old employees at the maternity units reported, which add little or nothing to the case. For example, except for a few occasions, no examination of the births and deaths of new-born babies recorded on the Civil Register has been ordered so that the data can be crosschecked against that of maternity units. Whether that is because of a lack of interest or for other reasons, the claimants have been utterly neglected by the institutions.

Ms Pascual wished to convey the little confidence that those affected have in the DNA tests

that are being carried out by private laboratories under agreements signed with victims' associations. Errors have been detected. Genetic tests have only made it possible to reunite about 50 children with their mothers, who were single mothers when their children were forcibly removed. It would therefore seem that a plot only existed to steal children from single mothers, who were undoubtedly one of the most vulnerable groups during the dictatorship. That view would reduce the scandal to an ideological matter, overlooking the extraordinary business in the appropriation of children in Spain for five decades. The journalist explained that the Spanish Government is projecting the appearance that it supports the search for the stolen children. Few of the victims have approached the office set up by the Ministry of Justice because of a lack of trust. Political parties urgently need to reach a state-wide agreement on this matter.

The following MEPs asked questions:

- Eleonora Evi, who said that the crimes committed by this group of wrongdoers calls the Amnesty Law in question
- Julia Pitera, who pointed out that the events occurred during a specific historical period and asked how the files of private clinics could be made available.
- Jude Kirton Darling asked whether the possibility of making contact with associations in European countries that have had similar issues, such as Ireland, had been considered.

Mr Vila Torres responded:

- Contact has been made with Ireland with respect to similar cases. They were also following the Catholic Church's response to similar cases in Argentina.

Round table with petitioners (23 May 2017)

The petitioners presented the latest developments in their cases to MEPs. All complained about the lack of investigation, the long delays in the justice system which they thought were unacceptable, the government's legal duty to preserve documentation and make it available to those concerned, and the lack of protection from the authorities, given that the victims themselves have to shoulder the investigative burden and the burden of proof. They were openly critical of the Information Office set up by the Ministry of Justice, which they accuse of being administrative and not providing psychological support or legal advice.

They called for the DNA tests that they have to take to be free; for the judge's criteria on the statute of limitations of the crimes to be unified; for a special police group dedicated to cases of stolen babies to be created, along with a national database on those affected; for the proceedings not to be archived; for pressure to be put on the Vatican for the religious orders involved to open their records and make them accessible to the Justice System and the families; and for an investigative committee to be created in the Spanish Parliament.

All of them described the ordeal that they are going through in trying to find their missing relatives and called for the State to assume its responsibilities and apologise to them as victims. There was a notable lack of trust in the judicial system and investigations carried out among the petitioners.

The petitioners attending the round table with MEPs were:

- Ruth Appleby, (Petition No 758-13), gave an update of her case: her last appeal was denied by the court of La Coruna in 2015 and her last appeal to the Supreme Court was also denied, she has now exhausted all judicial remedies in Spain and therefore she has appealed to the Court of Human Rights in Strasbourg, at no point to date has been asked to give testimony about her case in court. She considered the delays unacceptable and has no trust in the official investigations undertaken to date in her case.
- Patricia, daughter of Eustoquia Camarero Urquiza (0927-13), complained that the administration does not provide nor wants to provide any information on her brother, that the documents, such as the autopsy, are full of falsehoods, that her case was denounced in Granada but the prosecutors and the police have not investigated it and the allegations have been filed due to the lack of evidence.
- Mr Isasmendi representing Eduardo Raya Retamero, (1013-12) said details of the petition have already been given, but stated that the body buried by Mr Raya Retamero was not his daughter's and the samples confirm it as do the DNA analyses. He has exhausted all legal channels until the Constitutional Court. He denounced cases of arrests in Granada between the years 1990-92 and he qualified them as crimes against humanity. He denounced that the filing of the cases is due to no administrative follow-up and the lack of help from the administration.
- María de las Mercedes Bueno Morales (1772-12), said that there is no new information on her case, the disappearance of her baby girl in Cadiz. She accused the State, demanding that their cases be brought to justice and said that the victims should not have to carry the burden of proof. She asked for legal and psychological support for the largest group of victims existing in Spain. For her these crimes are crimes against humanity and the State is responsible for the situation.
- Ana Maria Cueto Eizaguirre (1772-12), said that the historical archives are full of deaths of foetuses, and that the investigations were closed in 2013 as the prosecutor denied the possibility of investigating the remains of babies buried for decades.
- Maria Flor de Lis Díaz Carrasco (1772-12), said that she does not trust the State, that the victims do their own investigations and she wanted an independent Commission to investigate the cases now filed by the judges.
- Francisco González de Tena (1772-12) representing “Colectivo sin identidad de Canarias”, asked the EP to intervene due to the inactivity of the State administration, He asked the church to open its archives and denounced the destruction of documents in an intentional way, that should be typified as a crime.
- Esperanza Ornedo Mullero (1772-12), representing the Huelva Association, said she was concerned about the documentation of her petition. She questioned the trial of her case and the closure of the investigations. She has decided to appeal to the Court of Human Rights in Strasbourg.
- Josefina Marina Perez Sanchez (1772-12), is still seeking her mother who was born in la “Casa Cuna” of Valencia and the religious order responsible for this hospital is reluctant to

give any data on her parents. She requests the opening of the ecclesiastical archives.

- Luisa Fernanda Terrazas Fernández (1772-12) said twins, a boy and a girl, were stolen from her from a hospital in Jerez and no one from the State has spoken to her. She complained that the investigations have been carried out by the victims. She blamed the State for the situation, not giving responses and that the cases are now filed by the judges. She asked the EP to help to reopen the cases. She spoke emotionally about her suffering and difficulties during all these years stating that she believed that she would ‘die of a broken heart rather than old age’.

The following MEPs asked questions:

- Eleonora Evi, who drew attention to the judiciary’s unwillingness to resolve the cases. She said that the Government should follow the recommendations of the UN Working Group on Enforced or Involuntary Disappearances and that there should be the political will to enforce the protection of the rights of children and their right to their identity.
- Julia Pitera asked the petitioners why they had not approached the Spanish Parliament’s Committee on Petitions and whether they had taken advantage of the openness of the current Pope Francisco to ask the Vatican to open the archives of the religious orders.
- Tatjana Zdanoka called for those responsible to be put on trial and found it unacceptable that only one case had been brought to justice.
- Michela Giuffrida called for the DNA tests for victims to be paid by the State and for the State to assume the judicial and legal costs, psychological care and support for the victims; for a police task force to bring together the inquiries; for access to the private archives; and for those affected to be given victim status. She also called for those affected to be active in the media to help get their message out to society.
- Jude Kirton Darling called for a nationwide public investigation into the matter and an independent committee to look into it. She also called for pressure to be put on the Vatican to demand that the ecclesiastical archives be opened.
- Rosa Estarás called the testimonies heartbreaking, thought that the Government was acting in good faith, and believed that there was a real willingness to investigate and that searching for the truth would help the victims. She called for the DNA tests to be free; for access to be provided to the documentation needed for the investigation and for obstacles to be removed for the victims (although she re-emphasised the independence of the judiciary); and for records to be opened and evidence transferred to the judiciary.
- Josep-Maria Terricabras called for the Public Prosecutor’s Office to seek evidence of the charges and said that the victims should not be the ones to do that. He called for the judges to unify their criteria on the statute of limitations of the crimes (the Public Prosecutor’s Office uses unified criteria but that is not reflected in judges’ actions), and for a fiscal coordinator to be appointed. He also highlighted the importance of data protection not being used to protect offenders.

- Marina Albiol thought that the Church was complicit in these crimes against humanity at the time and that there was an obligation to investigate them, which was not being met by the Government.

Meeting of the Justice Committee at the Congress of Deputies (23 May 2017)

Ms Margarita Robles Fernández, Chair of the Justice Committee, welcomed the EP delegation and expressed solidarity with the victims of the terrorist attack in London the previous night. The head of the EP delegation, Ms Kirton Darling, thanked her for that, and a minute's silence was held to remember the victims.

The purpose of the interview with the Justice Committee was to find out what the Congress had done on this issue and exchange opinions and information about the parliamentary initiatives adopted by the chamber. The Congress of Deputies' Justice Committee has adopted two non-legislative proposals on this matter in the 10th and 11th legislatures (position papers for the Government).

- 11th Legislature: Non-legislative proposal on the investigation of the theft of newborn babies (File No 161/277), adopted by the Justice Committee at its session on 5 April 2016.
- 10th Legislature: Non-legislative proposal urging the Government to look into the work to support victims of the theft of babies (File No 161/2585), adopted by the Justice Committee at its session on 10 June 2014.

Jose Ignacio Prendes Prendes, Cs Group, claimed that the victims had been deprived of their identity and that his group had called for them to be recognised as victims of crimes against humanity, which would mean that the offence would not be time-barred.

Jaume Moya Matas, CUP-EC-EM Group, said it was a 'shame MEPs are doing our homework' and called for measures to restore democracy; for the State to assume its responsibilities on the matter; for those affected to be recognised as 'victims', which would grant them rights to free legal aid, support and assistance, and for the creation of a centralised DNA file (with free tests for those affected). He also called for the Ministry of Justice's Information Office to be reorganised and given greater resources. He called for there to be a specialised section of the Public Prosecutor's Office that could act on its own initiative.

Maria Jesus Moro Almaraz, Popular Group, thought that this issue should not be used for demagoguery and that it was not true to say that progress had not been made. When the Government became aware of the first claims in 2011, the Ministries of Justice, the Interior, Health and the Public Prosecutor's Office mobilised and began to work on it not long after (February 2012). The Committee had adopted two initiatives and the latest had been done so unanimously. They had requested that a single database of genetic profiles (containing the tests completed by the INTCF) be created along with a robust standing of victim that included those affected by the theft of babies.

Jude Kirton Darling said that the experience in Ireland could be used as an example, as there was a serious issue of trust in the investigations among those affected. She also asked if it was possible to have an independent committee of inquiry.

Michela Giuffrida called it a tragic situation in which it was important to find out the truth about the past. She believed that it was important to achieve concrete results and proposed that free DNA tests and legal aid be given to those affected, that a special public prosecutor and committee to investigate the issue be created as well as a police task force, along with the official status of victim.

Margarita Robles Fernández, Socialist Group and Chair of the Justice Committee, said that politics and criminal offences should not be mixed. She explained that there was a problem with ascribing a statute of limitations to the crime but that unification of the criteria was dependent on a ruling from the Supreme Court. She asked for judicial rulings not to be appraised because each case had an independent and individual procedure. The Chair explained that adoption and civil registry law was changed in 1987 and thus the democratic State regained the prerogatives that had belonged to parishes. She said request for a committee of inquiry was in the hands of the board of rapporteurs and awaiting follow-up.

Ester Capella y Farre, ER Group, explained that the historical memory process that began in 2010 was incomplete and that justice, truth and reparations were required. She explained that she submitted a request to the Congress' Investigative Committee in 2016 on behalf of the Confederal Unidos Podemos Group and Socialist Group, and thought that a specialised public prosecutor and police groups should be called for.

Meeting of the Spanish Episcopal Conference (23 May 2017)

Mr Jose Maria Gil Tamayo Secretary-General of the Spanish Episcopal Conference.

Rev. Carlos López Segovia Vice-Secretary for General Affairs.

Mr Jesus Miguel López Nieto Technical Secretary of the Legal Service

Mr Jose Maria Gil Tamayo said that it was important to make reparations to the innocent and seek justice, memory and redress.

He explained that the Episcopal Conference represented Spanish bishops and had existed since the Second Vatican Council. It was a collegiate institution of Spanish bishops, who reported to Rome, which meant that the dioceses were autonomous and reported directly to Rome. The scope of the Episcopal Conference's competences was therefore somewhat limited.

The parish archives had existed since the Council of Trent (16th Session) and contained information about sacraments (baptisms, weddings, etc.). The people concerned had access to those (under data protection law) but if the information was requested via legal means or the Public Prosecutor's Office, there was nothing to stop the archives from being opened. He said that the Conference had no mandate over the dioceses and that every parish reported to a diocese. However, it was possible to address the Bishop where there was a legitimate interest, and he was sure that there would be no problem in accessing the information in the archives. The sacramental archives of civil institutions that were in parishes had been transferred to state institutions; in 1987, adoption and civil registry law had been changed and the state had regained the prerogatives that had belonged to parishes.

How archives were accessed: the baptism parish guaranteed access and third-party confidentiality. Mr Tamayo offered to collaborate to the extent possible under current legislation. The religious congregations were another matter, as they were completely autonomous and reported directly to the Vatican.

Ms Julia Pitera asked a series of questions on the correspondence between information on baptismal certificates and the civil register. She explained that as a result of the increase in childbirths at public hospitals in provincial capitals in the second half of the 20th century, the dates of birth would actually be on the civil register as the baptism happened later. Data on the deaths of children were found in the civil register and not the ecclesiastical registers.

Ms Eleonora Evi asked whether there were ideological reasons for the disappearances and whether there were local plots, and thought it was necessary to create an Investigative Committee to gain a better understanding of the victims' personal tragedies.

Marina Albiol claimed that the disappearances of babies between the 1940s and the 1990s were the result of ideological repression and, later, a lucrative business. She thought that the religious congregations, children's homes and secret childbirths formed a system that contributed to the situation. She asked whether the Church would conduct its own investigation and whether the congregations' archives would be opened (and preserved indefinitely). Ms Marina Albiol asked whether the Church would collaborate proactively on this matter and advise its members on how to respond to the tragedy.

Mr Josep-Maria Terricabras also called for the Church to collaborate more proactively on this issue as it had done recently on others issues such as cases of paedophilia.

In response to the questions, Jose Maria Gil Tamayo confirmed his complete condemnation of the events which, for him, had no justification at all. It was necessary to understand the historical context, in which poverty and honour played a very important role. He called for those responsible to be punished, without the good name and work of certain religious orders being tainted by the crimes of a few. He believed that there were cases of clandestine adoptions as a result of weak regulation. He thought that it would be appropriate to make general recommendations on the archives of provincial governments and religious congregations, ensuring that the rights of third parties would be upheld at all times. He committed to providing bishops with guidance on the archives and asked them to collaborate on the matter. He rejected the idea that the Church as an institution acted in conspiracy and claimed that on the assumption that specific people had committed offences through false adoptions and the theft of children, which had to be considered crimes and an attack on fundamental rights.

Ms Jude Kirton Darling asked whether the Church could work proactively with the Ministry of Justice and make its archives available, with the consent of the data protection agency. Mr Tamayo replied that the parish archive data were largely on microfilm (made by Mormons) and was positive about cooperating with the Ministry of Justice documentation services to ensure access to ecclesiastical archives that it would not be a problem to make them available to the Ministry of Justice as long as the rights of third parties were upheld.

Ms Jude Kirton Darling hoped that Pope Francis' considerable sensitivity towards issues of this kind, which have also been faced in Argentina, would help to resolve the situation to some extent if the archives could be opened up.

Ms Evi asked whether there was any indication that these cases were part of an organised network or if they had any ideological element to them. The church responded that they don't see an organised network, more acts undertaken by rogue individuals.

General remarks

The MEP delegation's visit was intense, with regard to both the content and schedule of the visits and it was widely reported by the media. It would like to thank all the Institutions for welcoming them. The theft of babies and illegal adoptions during the dictatorship and early years of democracy had a profound impact on the MEPs, who wished to express their solidarity with the victims and their families. The visit arose from the need to assess the scope and scale of the matter in situ and to look into what kind of measures had been taken and could be taken to address the victims' concerns, to establish the truth and to avoid the situation happening again.

The clear contradictions between what the different authorities, victims, journalists and lawyers said left an impression after the visit and raised many questions.

MEPs welcomed the recognition and acceptance by all parties involved that the abduction of new-born babies was happening during the period following the Civil War, during the Franco dictatorship, and under democratic rule. However, the number of people that the parties claim were affected differ, which is not helpful in making an adequate assessment of the scale of the problem. There are also different criteria for establishing whether the theft of babies was the result of an institutionalised trafficking network or lone criminals. In view of the differences in criteria, it was clear that victims lacked trust in the institutions and felt they had been obstructed, whether that is because they do not think that the investigations carried out have been adequate or because they do not think that the victim should be the one to provide evidence of the crime. They want the Public Prosecutor's Office to be more proactive and act on its own initiative in all the cases, without the victim having to carry the burden of the judicial process. The MEPs also thought that victims could be better and proactively supported, both psychologically and with regard to the legal guidance and administrative information provided in reported cases. But MEPs unanimously agreed that there is a serious problem that demands justice, memory and redress.

The MEPs stressed how important it was for the Church to cooperate with the Justice System by providing access to archived documentation to support its work. They also welcomed the commitment that the Episcopal Conference expressed to making its archives available to the Ministry of Justice and regretted that it had not already happened as a matter of urgency.

Recommendations

Bearing in mind all the above, the Committee on Petitions makes the following recommendations to the competent national authorities:

1. Deplores the dereliction of duty on the part of the authorities reported by the petitioners, victims and victims' associations and the authorities' failure to protect them or adequately investigate their claims until now; it calls on the Spanish authorities to commit to opening in a timely manner a strong and ongoing, stable and concrete

- dialogue with the petitioners and associations for those affected;
2. Recommends the creation of a Special Public Prosecutor to address all cases of alleged theft and illegal adoption of new-born babies;
 3. Calls the Public Prosecutor's office to be more proactive, acting on its own initiative on these cases in order to avoid the victim having to carry the burden of the judicial process;
 4. Points out that the Spanish State is bound to comply in full with the UN Convention on the Rights of the Child and the UN Declaration on the Protection of All Persons from Enforced Disappearance; considers, therefore, that the Spanish State should, in cases of stolen children, ensure that an institutional approach is taken, in addition to all necessary measures to ensure that the national legal framework is fully consistent with obligations under international law;
 5. Takes the view that the Spanish State should ratify the UN Convention on the Non-Applicability of Statutory Limitations to War Crimes and Crimes Against Humanity and go as far as to recognise the crimes committed, in relation to the cases of stolen children, as crimes against humanity;
 6. Is firmly convinced that the possible crimes linked to the cases of children stolen during the Franco dictatorship, in addition to those committed subsequently, should be investigated effectively and efficiently and that no amnesty should be applied; calls on the Spanish authorities, accordingly, to adopt the necessary legislative and judicial measures to invalidate any interpretation of national law that conflicts with the actual achievement of that goal;
 7. Calls for there to be a clear protocol on which authorities are responsible for investigating cases involving victims resident in another member state in accordance with the Victims' Rights Directive, article 17 and calls for greater cooperation between all authorities involved;
 8. Calls for Interpol to monitor the work done by investigative authorities on cross-border cases;
 9. Urges the Spanish authorities to identify and apply specific administrative and legal solutions as a matter of priority and urgency, in coordination with the victims and associations, including aid to cover their legal expenses, with a view to the judiciary and the public prosecutor conducting an ex-officio investigation into the alleged theft of new-born babies, as described by EU citizens in their petitions to the European Parliament and provide proactive support for the victims;
 10. Emphasises the need for the Spanish authorities to reinforce the channels for direct participation and dialogue with the victims and their associations to address the need to find a solution by means of effective mediation to build the victims' trust in future investigations;
 11. Recalls that the bulk of cases took place in the period between 1940 and 1992, as an examination of the petitions and complaints submitted shows; recommends that the

Spanish Government acknowledge that, during the Franco dictatorship, the state was implicated in, and/or stood idly by during, the systematic theft and illegal adoption of babies, as a first step towards ensuring the victims' right to truth, justice and redress, as a guarantee that such a thing can never happen again;

12. Urges the Spanish authorities to take immediately the requisite measures to commit the government to provide resources and take measures to help solving all the alleged cases of theft of babies and illegal adoption and step up their commitment by starting information campaigns which should also include the use of social networks in order to raise awareness among all those involved of the need to collaborate and work as closely as possible with the victims associations;
13. Recommends that a public and dedicated National DNA bank be developed specifically accessible for these cases to enable information about the victims to be crosschecked to help them find their real families; calls for DNA tests to be provided for free, including through the INTCF, in all reported cases of alleged stolen babies, without the need for an order from a court or public prosecutor and with the participation and/or supervision of representatives of the legally constituted victims' associations;
14. Recommends taking all the measures needed to guarantee certainty in the identification of new-born babies and in determining maternal parentage beyond any doubt by carrying out the requisite medical, biometric and analytical tests;
15. Regrets the 'limited progress' made by the Spanish Government in implementing the recommendations made in the 2014 report of the UN Working Group on Enforced or Involuntary Disappearances and calls on the Spanish government to implement these recommendations as a matter of urgency, particularly the adoption of a national plan for searching for missing persons;
16. Recommends increasing funding to the Ministry of Justice office that provides support for the victims of the possible theft of new-born babies ensure victims receive firm commitment on the part of the Spanish authorities to bear the expenses for psychological support, legal guidance, social-security protection and access to administrative information, taking into account the Victims' Rights Directive (2012/29);
17. Welcomes the decision of some regional parliaments (e.g. Navarra) to provide victims with free legal aid and recommends that the Spanish Government adopts the mechanisms and similar legislative measures at national level needed so that all citizens and all families affected can receive equal support and equal protection throughout the national territory, including free access to the justice system and the exhaustive processing of their claims in every case;
18. Notes the guidance and concrete measures issued in the non-legislative proposals adopted by the Congress of Deputies' Justice Committee on the investigation into the theft of new-born babies and support for the victims, of 5 April 2016 and 10 June 2014;
19. Welcomes the political groups' agreement in the 2017 General State Budget to earmark EUR 100 000 of the Ministry of Justice's budget, the use of which should, with analytically proven data, lead to the improved management and resolution of claims

from those affected and recommends an early review to ensure adequate resources are available; also notes the agreement made through a compromise amendment that highlights a clear commitment to creating a technological platform to support those affected and help investigate genetic profiles;

20. Welcomes the guidance provided by the Public Prosecutor's Office in its Circular 2/2012 on unifying criteria for proceedings concerning the abduction of new-born minors and recommends that the General Council of the Judiciary examine the possible unification of criteria to prevent the crimes from becoming time-barred under statutes of limitations; recommends to ensure and facilitate the access to records in civil registries and the old hospital birth registers;
21. Urges the Spanish authorities to provide ongoing, free psychological support for victims, by using the appropriate professionals;
22. Calls for the full and effective protection of those who have allegedly suffered the abduction and illegal adoption of babies under a special status of the victim both for parents and the identified children, including the possibility to state compensation, taking into account the Victims' Rights Directive;
23. Stresses the need for the ecclesiastical authorities to recognise their potential involvement in the abduction of babies and illegal adoptions, apologise to the victims; urges them to collaborate proactively and more effectively with the Ministry of Justice and make the archives of parishes and religious congregations available to the victims, giving full access and ensuring maximum transparency, in order to facilitate the investigations of the courts by encouraging reunions, where possible;
24. Recognises the welcome apology from the Catholic Church to women subjected to forced adoptions in the UK, and encourages similar recognition of victims in Spain;
25. Recommends finally launching an Investigative Committee without delay in the Congress of Deputies to improve understanding of the problem, assess if the INTCF results are representative, establish whether this was the work of rogue individuals or an institutionalised trafficking network and propose improved measures that support the clarification of events to avoid a similar situation occurring in future; Victims' associations, the Ministry of Justice and the OMC (Organizacion Medica Colegial) should be represented in this Committee;
26. Considers it of vital importance for a specialist judicial unit to be set up, equipped with the necessary financial and police resources, devoted to investigating the alleged cases of stolen children;
27. Calls for the establishment of a pool of judges to conduct ad hoc investigations, also in view of the numerous complaints which refer to episodes of the same nature;
28. Stresses that multiple findings point to the associative, systemic nature of the acts perpetrated in relation to the cases of stolen children; calls on the Spanish authorities to conduct all the activities of the investigation exhaustively, taking full account of all the complaints and the relevant documentary evidence submitted by the citizens concerned;

29. Stresses how important it is for the Spanish Government to collaborate and cooperate fully with international investigations into abductions of babies and illegal adoptions, particularly case 4591/2010, under the instruction of the Argentinian judge María Servini de Cubria, and the investigation recently opened by Mexico's National Public Prosecutor's Office;
30. Calls on the Commission, the European Ombudsman and the EU Agency for Fundamental Rights to investigate and monitor, within the scope of their powers, possible violations of the rights of victims of enforced or involuntary disappearances perpetrated by the Spanish authorities;
31. Asks the Chair of the Committee on Petitions to forward this report to all petitioners and legally constituted associations of victims of theft and illegal adoption of babies, the Committee on Civil Liberties, Justice and Home Affairs, the European Commission, the European Ombudsman, the EU Agency for Fundamental Rights, the Government of Spain, the governments of Spain's autonomous communities, the Spanish Ombudsman and the UN Working Group on Enforced or Involuntary Disappearances.

EPP Group Minority Opinion

The EPP Group upholds the right to an independent and effective judicial investigation for the victims of the abduction of babies in Spain.

We support granting all the victims free DNA tests; we call for the Church to render its archives accessible to the affected families; we second the decision to substantially increase funding to the Ministry of Justice office that provides support for victims, and we support the Investigative Committee in the Congress of Deputies, thus fulfilling the demands of the petitioners.

Given the highly sensitive nature of this fact-finding visit, we are convinced that the report must be balanced and rely on facts. Therefore we supported the original draft of the report by the delegation Chair.

We regret that the final report concludes in its recommendations that those crimes were perpetrated by the Spanish state, as stated in amendments 23 and 74 submitted by the GUE/NGL Group. We underline that there is no proof for such conclusion. We deplore the impression that such statements serve internal political gains. We emphasise finally that it is the competence of the judiciary, and not the Petitions Committee, to find whether those crimes were committed by individuals or an institutionalized trafficking network.

INFORMATION ON ADOPTION IN COMMITTEE RESPONSIBLE

Date adopted	22.11.2017
Result of final vote	+: 20 -: 9 0: 0
Members present for the final vote	Marina Albiol Guzmán, Margrete Auken, Beatriz Becerra Basterrechea, Heinz K. Becker, Andrea Cozzolino, Rosa Estaràs Ferragut, Pál Csáky, Eleonora Evi, Peter Jahr, Rikke Karlsson, Jude Kirton-Darling, Svetoslav Hristov Malinov, Notis Marias, Marlene Mizzi, Cristian Dan Preda, Gabriele Preuß, , Virginie Rozière, Yana Toom, Jarosław Wałęsa, Cecilia Wikström, Tatjana Ždanoka
Substitutes present for the final vote	Michela Giuffrida, Demetris Papadakis, Julia Pitera, Sven Schulze, Igor Šoltes, Ángela Vallina
Substitutes under Rule 200(2) present for the final vote	Martina Anderson, Inés Ayala Sender

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

20	+
ALDE	Beatriz Becerra Basterrechea, Yana Toom, Cecilia Wikström
ECR	Rikke Karlsson, Notis Marias
EFDD	Eleonora Evi
GUE/NGL	Marina Albiol Guzmán, Martina Anderson, Ángela Vallina
S&D	Inés Ayala Sender, Andrea Cozzolino, Michela Giuffrida, Jude Kirton-Darling, Marlene Mizzi, Demetris Papadakis, Gabriele Preuß, Virginie Rozière
VERST/ALE	Margrete Auken, Igor Šoltes, Tatjana Ždanoka

9	-
PPE	Heinz K. Becker, Rosa Estaràs Ferragut, Pál Csáky, Peter Jahr, Svetoslav Hristov Malinov, Julia Pitera, Cristian Dan Preda, Sven Schulze, Jarosław Wałęsa

0	0

Key to symbols:

+ : in favour

- : against

0 : abstention