



GRETA
GROUP OF EXPERTS
ON ACTION AGAINST
TRAFFICKING IN HUMAN BEINGS

GRETA(2017)4

**Report concerning the implementation
of the Council of Europe Convention
on Action against Trafficking in Human Beings
by Portugal**

SECOND EVALUATION ROUND

Adopted on 2 December 2016
Published on 17 March 2017

COUNCIL OF EUROPE



CONSEIL DE L'EUROPE

Secretariat of the Council of Europe Convention
on Action against Trafficking in Human Beings
(GRETA and Committee of the Parties)
Council of Europe
F- 67075 Strasbourg Cedex
France

trafficking@coe.int

www.coe.int/en/web/anti-human-trafficking

Table of contents

Preamble	4
I. Introduction	5
II. Main developments in the implementation of the Convention by Portugal	7
1. Emerging trends in trafficking in human beings	7
2. Developments in the legal framework	7
3. Developments in the institutional framework	8
4. National Action Plan	10
5. Training of relevant professionals	10
6. Data collection and research	12
III. Article-by-article findings	15
1. Prevention of trafficking in human beings	15
a. Measures to raise awareness of THB (Article 5)	15
b. Measures to prevent THB for the purpose of labour exploitation (Article 5)	16
c. Measures to prevent trafficking in children (Article 5).....	17
d. Social, economic and other initiatives for groups vulnerable to THB (Article 5)	18
e. Measures to prevent trafficking for the purpose of organ removal (Article 5).....	19
f. Measures to discourage demand (Article 6).....	20
g. Border measures (Article 7).....	20
2. Measures to protect and promote the rights of victims, guaranteeing gender equality	21
a. Identification of victims of THB (Article 10)	21
b. Assistance measures (Article 12)	23
c. Identification and assistance of child victims of THB (Articles 10 and 12).....	24
d. Protection of private life (Article 11).....	27
e. Recovery and reflection period (Article 13).....	27
f. Residence permits (Article 14).....	28
g. Compensation and legal remedies (Article 15).....	29
h. Repatriation and return of victims (Article 16).....	31
3. Substantive criminal law	32
a. Criminalisation of THB (Article 18).....	32
b. Criminalisation of the use of services of a victim (Article 19).....	34
c. Corporate liability (Article 22).....	34
d. Non-punishment of victims of THB (Article 26).....	35
4. Investigation, prosecution and procedural law	36
a. Measures related to ensuring effective investigations (Articles 1, 27 and 29).....	36
b. Protection of witnesses and victims (Articles 28 and 30)	38
c. Jurisdiction (Article 31).....	38
5. International co-operation and co-operation with civil society	39
a. International co-operation (Articles 32 and 33)	39
b. Co-operation with civil society (Article 35).....	41
IV. Conclusions	42
Appendix List of public bodies, intergovernmental organisations, non-governmental organisations and other civil society actors with which GRETA held consultations	47
Government's Comments	49

Preamble

The Group of Experts on Action against Trafficking in Human Beings (GRETA) has been set up pursuant to Article 36 of the Council of Europe Convention on Action against Trafficking in Human Beings ("the Convention"), which entered into force on 1 February 2008. GRETA is responsible for monitoring the implementation of the Convention by the parties and for drawing up reports evaluating the measures taken by each party.

GRETA is composed of 15 independent and impartial experts coming from a variety of backgrounds, who have been selected on the basis of their professional experience in the areas covered by the Convention. The term of office of GRETA members is four years, renewable once.

GRETA's country-by-country monitoring deals with all parties to the Convention on an equal footing. In accordance with Article 38, paragraph 1, of the Convention, GRETA evaluates the implementation of the Convention following a procedure divided into rounds. At the beginning of each round, GRETA selects the specific provisions on which the evaluation procedure is to be based and defines the most appropriate means to carry out the evaluation. GRETA adopts a questionnaire for each evaluation round which serves as the basis for the evaluation and is addressed to all parties.

The first evaluation round was launched in February 2010 and the questionnaire for this round was sent to all parties according to a timetable adopted by GRETA, which reflected the time of entry into force of the Convention for each party. GRETA organised country visits to all parties in order to collect additional information and have direct meetings with relevant actors, both governmental and non-governmental. By the beginning of 2014, most of the parties had been or were being evaluated for the first time, whilst the number of parties to the Convention continues to grow.

GRETA decided to launch the second evaluation round of the Convention on 15 May 2014. Following the first round of monitoring, which provided an overview of the implementation of the Convention by each party, GRETA has decided to examine during this new evaluation round the impact of legislative, policy and practical measures on the prevention of trafficking, the protection of the rights of victims of trafficking, and the prosecution of traffickers. The adoption of a human rights-based approach to action against trafficking in human beings remains at the centre of the second evaluation round. In addition, particular attention is paid to measures taken to address new trends in human trafficking and the vulnerability of children to trafficking. For the second evaluation round, GRETA has adopted a questionnaire to be sent to all states parties which have undergone the first round of evaluation, following a timetable approved by GRETA.

GRETA's reports are based on information gathered from a variety of sources and contain recommendations intended to strengthen the implementation of the Convention by the party concerned. In its recommendations, GRETA has adopted the use of three different verbs - "urge", "consider" and "invite" - which correspond to different levels of urgency of the recommended action for bringing the party's legislation and/or practice into compliance with the Convention. GRETA uses the verb "urge" when it assesses that the country's legislation or policy are not in compliance with the Convention, or when it finds that despite the existence of legal provisions and other measures, the implementation of an obligation of the Convention is lacking. In other situations, GRETA "considers" that it is necessary to make improvements in order to fully comply with an obligation of the Convention. By "inviting" a country to pursue its efforts in a given area, GRETA acknowledges that the authorities are on the right track.

As regards the procedure for the preparation of reports, GRETA examines a draft report on each party in a plenary session. The process of confidential dialogue with the national authorities allows the latter to provide, within two months, comments on GRETA's draft report with a view to providing additional information or correcting any possible factual errors. These comments are taken into account by GRETA when establishing its final report. The final report is adopted by GRETA in a plenary session and transmitted to the party concerned, which is invited to submit any final comments. At the expiry of the time-limit of one month GRETA's report, together with eventual final comments made by the national authorities, are made public and sent to the Committee of the Parties to the Convention.

I. Introduction

1. The first evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings ("the Convention") by Portugal took place in 2011-2013. Following the receipt of Portugal's reply to GRETA's first questionnaire on 27 August 2011, a country evaluation visit was organised from 13 to 17 February 2012. The draft report on Portugal was examined at GRETA's 14th meeting (25-29 June 2012) and the final report was adopted at GRETA's 15th meeting (26-30 November 2012). Following the receipt of the Portuguese authorities' comments, GRETA's final report was published on 12 February 2013.¹

2. In its first evaluation report on Portugal, GRETA welcomed the setting up of the legal and institutional framework for combating trafficking in human beings (THB), including the adoption of national action plans against THB and the setting up of the Observatory on Trafficking in Human Beings under the Ministry of the Interior. However, GRETA considered that increased attention should be paid to THB for the purpose of labour exploitation, which had been on the rise in Portugal. GRETA noted the adoption of a national referral system for trafficked persons, but urged the authorities to ensure that, in practice, the identification of victims is dissociated from their participation in investigation and court proceedings. GRETA also underlined that front-line professionals should adopt a more proactive approach to the detection of victims of THB and increase their outreach work. Given that there was only one shelter for victims of THB in the country, GRETA urged the Portuguese authorities to step up their efforts to provide assistance, including appropriate accommodation, to victims of trafficking, including men and children. Concerned by the low number of convictions for human trafficking in Portugal, GRETA called on the authorities to identify gaps in the investigation procedure and the presentation of cases in court, with a view to ensuring that THB offences are effectively investigated and prosecuted, leading to proportionate and dissuasive sanctions. Another area of concern was the absence of compensation awarded to victims of THB, and GRETA urged the authorities to address this lacuna through improved access to legal aid and increased information to victims about their right to compensation and the procedures to follow.

3. On the basis of GRETA's report, on 15 February 2013 the Committee of the Parties to the Convention adopted a recommendation to the Portuguese authorities, requesting them to report back on measures taken to implement this recommendation by 15 February 2015.² The report submitted by the Portuguese authorities was considered at the 16th meeting of the Committee of the Parties (15 June 2015). The Committee of the Parties decided to transmit the authorities' report to GRETA for consideration and to make it public.³

4. On 8 June 2015, GRETA launched the second round of evaluation of the Convention in respect of Portugal by sending the questionnaire for this round to the Portuguese authorities. The deadline for submitting the reply to the questionnaire was 9 November 2015, date on which Portugal submitted its reply.⁴

¹ Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Portugal, GRETA(2012)17, available at:

<http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680686b19>

² Recommendation CP(2013)4 on the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Portugal, adopted at the 10th meeting of the Committee of the Parties on 15 February 2013, available at:

<http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168063bb5b>

³ Available at:

<http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168063bb5d>

⁴ Available at:

<http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=090000168063bb60>

5. In preparation of the present report, GRETA used the reply to the questionnaire by the Portuguese authorities, the above-mentioned report submitted by them to the Committee of the Parties, and information received from civil society. An evaluation visit to Portugal took place from 4 to 8 April 2016 in order to hold meetings with relevant governmental and non-governmental actors, collect additional information and examine the practical implementation of the adopted measures. The visit was carried out by a delegation composed of:

- Mr Nicolas le Coz, President of GRETA;
- Ms Vessela Banova, member of GRETA;
- Mr Markus Lehner, Administrator in the Secretariat of the Convention.

6. During the visit, GRETA's delegation met Ms Catarina Marcelino, Secretary of State for Citizenship and Equality. Discussions were also held with Mr Manuel Albano, National Rapporteur for Trafficking in Human Beings, and officials from relevant ministries and other public bodies, including the Observatory of Trafficking in Human Beings, the Labour Conditions Authority, the National Commission for the Protection of Children and Young People at Risk, the High Commission for Migration, the General Prosecutor's Office and the Superior Council of Magistracy.

7. Further, GRETA's delegation met with members of the Portuguese Parliament's Committee on Constitutional Affairs, Rights, Freedoms and Safeguards, chaired by Mr Bacelar de Vasconcelos.

8. In addition to holding meetings in Lisbon, the delegation travelled to Coimbra where it met the regional multi-disciplinary team for providing assistance to victims of trafficking in the central region of Portugal and representatives of public bodies and civil society organisations supporting the team's work.

9. In the course of the visit, the GRETA delegation visited two shelters for victims of trafficking operated by non-governmental organisations (NGOs) - one for women and their children, and the other one for male victims - as well as the reception centre for unaccompanied asylum-seeking children run by the NGO Portuguese Refugee Council in Lisbon.

10. Separate meetings were held with representatives of NGOs, researchers, lawyers, employer associations and trade unions. The GRETA delegation also met officials of the International Organization for Migration (IOM) and the International Labour Organization (ILO).

11. The list of the national authorities, NGOs and other organisations with which the delegation held consultations is set out in the Appendix to this report. GRETA is grateful for the information provided by them.

12. GRETA wishes to place on record the co-operation provided by the Portuguese authorities in the preparation of the second evaluation visit and in particular by the contact person appointed by the Portuguese authorities to liaise with GRETA, Mr Nuno Gradim of the Citizenship and Gender Equality Commission (CIG).

13. The draft version of the present report was approved by GRETA at its 26th meeting (4 - 8 July 2016) and was submitted to the Portuguese authorities for comments on 5 September 2016. The authorities' comments were received on 7 November 2016 and were taken into account by GRETA when adopting the final report at its 27th meeting (28 November - 2 December 2016). The final report covers the situation up to 2 December 2016; developments since that date are not taken into account in the following analysis and conclusions. The conclusions summarise the progress made since the first report, the issues which require immediate action and the other areas where further action is needed (see pages 43-47).

II. Main developments in the implementation of the Convention by Portugal

1. Emerging trends in trafficking in human beings

14. Portugal remains primarily a country of destination for trafficked persons, but is also to some extent a country of origin and of transit. In the period 2012 to the first half of 2016, a total of 226 victims of human trafficking were formally identified (13 in 2012, 144 in 2013, 33 in 2014, 32 in 2015 and four from January to June 2016).⁵ The majority of the identified victims were male (140). There were 36 children among the identified victims. Most of the victims were trafficked for the purpose of labour exploitation (162 persons), followed by sexual exploitation (52 persons). The Portuguese authorities have indicated that trafficking for the purpose of labour exploitation occurred primarily in the agricultural sector and concerned mostly Romanian men, but there were also some cases of labour exploitation in the areas of construction, professional football,⁶ domestic service and amusement parks.

15. All but 17 of the identified victims were foreign citizens (92%), the main countries of origin being Romania and Nigeria. There were 42 victims identified in transit situations at airports by the Immigration and Borders Service (SEF). Most of them were African girls (primarily from Nigeria, Guinea-Bissau and Mali) trafficked for the purpose of sexual exploitation through an abusive use of the asylum regime by the traffickers in order to ensure entrance to EU countries.

16. During the reporting period, in addition to the above-mentioned identified victims of THB, there were 404 presumed victims of human trafficking (i.e. persons "flagged" by law enforcement bodies, NGOs or other bodies on the basis of indicators of trafficking). Compared to the breakdown of the formally identified victims of trafficking, there were significantly more Portuguese nationals among the presumed victims (43%). The majority of the presumed victims were subjected to labour exploitation (48%), followed by sexual exploitation (29%) and forced begging (3%).

2. Developments in the legal framework

17. In its first evaluation report, GRETA asked the Portuguese authorities to amend the criminal law provisions on THB with a view to including slavery and practices similar to slavery and servitude among the forms of exploitation, stating explicitly the irrelevance of the consent of a victim of trafficking to the intended exploitation, and including as aggravating circumstances all situations envisaged in Article 24 of the Convention.

18. As a follow-up to GRETA's recommendations and with a view to transposing Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, Article 160 (trafficking in persons) of the Criminal Code (CC) was amended in August 2013. As a result, the list of forms of exploitation constituting THB was expanded by adding slavery, forced begging and the exploitation of other criminal activities. The amendments also added a list of aggravating circumstances. Further, a paragraph was added stating that the victim's consent to the offences set out in Article 160 does not exclude the wrongfulness of the act.

⁵ Data provided by the Observatory of Trafficking in Human Beings.

⁶ Investigations started in 2015 into the labour exploitation of young football players originating mainly from African countries and Brazil who were recruited by allegedly certified agents with the promise of profitable contracts with well-known football teams in Portugal. In reality, they were placed with football clubs at lower levels where they did not get paid salaries and were accommodated in bad conditions. Further, in the contracts with the agents they had ceded their right of future placements or transfers.

19. Further, through Law No. 60/2013 of 23 August 2013, amendments were made to Law No. 45/2011 in order to allow using assets seized from traffickers to finance assistance and compensation of trafficked persons, and to Law No. 101/2001 with a view to enabling the use of undercover agents for the purpose of preventing and detecting THB offences.

20. Moreover, with a view to implementing another recommendation made in GRETA's first report, Law No. 23/2007 on the Entry, Stay, Exit and Removal of Foreigners from Portugal was amended in August 2012 by introducing a new provision, Article 185-A, stipulating the punishment of an employer or user of the work or services of an irregular foreign citizen, with the knowledge that he/she is a victim of offences related to human trafficking.

21. The above-mentioned measures are discussed in greater detail in later parts of this report (see paragraphs 158-164, 166, 178 and 180).

3. Developments in the institutional framework

22. The institutional framework for action against THB has remained largely the same as described in GRETA's first report. The Citizenship and Gender Equality Commission (CIG), which is placed under the Bureau of the Presidency of the Council of Ministers and the State Secretariat for Citizenship and Equality, is responsible for co-ordinating the implementation of the activities included in the National Action Plan. The Observatory of Trafficking in Human Beings (OTSH), under the Ministry of the Interior, continues to be the central data collection point (see paragraph 47). As noted in GRETA's first report, the National Co-ordinator for Human Trafficking was appointed within the CIG in 2008 and was subsequently designated as National Rapporteur in 2012. In this context, GRETA would like to recall that Article 29 of the Convention makes a clear distinction between National Co-ordination and National Rapporteur. In GRETA's view, the key features of National Rapporteurs' mechanisms in the sense of Article 29, paragraph 4, of the Convention⁷ should be the ability to critically monitor the efforts and effectiveness of all state institutions, including national co-ordinators, and to that end maintain a constant exchange with civil society, the research community and other relevant stakeholders. The human rights-based approach to anti-trafficking policies advocated by the Convention requires adequate monitoring and evaluation. A structural separation between monitoring and executive functions enables an objective evaluation of the implementation of anti-human trafficking legislation, policy and activities, identification of lacunae and shortcomings, and the formulation of comprehensive legal and policy recommendations.⁸ **GRETA considers that the Portuguese authorities should examine the possibility of designating as a National Rapporteur a separate organisational entity or another independent mechanism for monitoring the anti-trafficking activities of State institutions.**

⁷ "Each Party shall consider appointing National Rapporteurs or other mechanisms for monitoring the anti-trafficking activities of State institutions and the implementation of national legislation requirements."

⁸ In this context, see also the Summary report on the Consultative Meeting on Strengthening Partnerships with National Rapporteurs on Trafficking in Persons and Equivalent Mechanisms organised by the UN Special Rapporteur on trafficking in persons, especially in women and children, in Berlin, 23-24 May 2013.

23. The co-ordination of the activities of the National Action Plans is supported by a Working Group involving all competent ministries.⁹ Since GRETA's first evaluation, the Working Group has been enlarged by involving the Superior Council of Magistracy, the Prosecutor General's Office and the National Association of Portuguese Municipalities, as well as three NGOs¹⁰ selected from the Network for Assistance and Protection to THB victims.¹¹ **GRETA welcomes this development.**

24. As foreseen in the 2nd National Action Plan to Prevent and Combat Trafficking in Human Beings, a Network for Support and Protection of Victims of Trafficking (RAPVT) was created in 2013. This network brings together governmental¹² and non-governmental¹³ organisations working on issues relating to combating trafficking in human beings and serves as a mechanism of enhanced co-ordination and information-sharing. In 2014, the network met three times and adopted an annual activity plan. In 2015 and 2016, it continued to hold periodic meetings, produce activity plans and consider interim reports.

25. The RAPVT was involved in revising the National Referral Mechanism (NRM) in 2014. Originally focussed on THB for the purpose of sexual exploitation, the NRM now also covers THB for the purpose of labour exploitation, forced begging and criminal activities (see paragraphs 104-106).

26. In 2013, the Immigration and Border Service (SEF) set up an Anti-Human Trafficking Unit, with three permanent staff, which is subordinated to the Directorate of Criminal Investigation. Besides fulfilling investigative tasks, this unit is also active in prevention, awareness raising, training and international co-operation.

27. In addition to the multi-disciplinary team for the support and protection of victims of THB in Porto which existed at the time of GRETA's first evaluation, three more regional multi-disciplinary teams have been set up, based respectively in Coimbra (in the central region of Portugal), Lisbon and the Alentejo (see paragraph 107). In their comments on the draft GRETA report, the Portuguese authorities have indicated that a fifth regional team has been operational in the Algarve region since 1 July 2016.

⁹ In GRETA's first evaluation report, this group was referred to as "Technical Committee". It was renamed "Working Group" under the Second National Action Plan. The Working Group is chaired by the National Rapporteur

¹⁰ As of April 2016, these three NGOs are: the Portuguese Victim Support Association (APAV), the Family Planning Association (APF), and the Women's Union - Alternative and Response (UMAR).

¹¹ The other participating entities are: the National Rapporteur on Trafficking in Human Beings (Chair), the Director of the Observatory of Trafficking in Human Beings (under the Ministry of Interior), and representatives of the Presidency of the Council of Ministers, the Ministry of Foreign Affairs, the Immigration and Borders Service (representing the Ministry of Interior), the Ministry of Justice, the Ministry of Economy, the Ministry of Health, the Ministry of Education and Science, and the Ministry of Solidarity, Employment and Social Security.

¹² The High Commissioner for Migration, the Ministry of Foreign Affairs, the Ministry of the Interior (Observatory of THB and Immigration and Borders Service), the Ministry of Justice (Judiciary Police), the Ministry of Health, the Labour Conditions Authority, and the Institute of Social Security.

¹³ ComuniDária Association, Women Against Violence Association, APF, APAV, Institute for Child Support, Irmãs Adoradoras Escravas do Santíssimo Sacramento e da Caridade, Movimento Democrático de Mulheres, O Ninho Association, Obra Social das Irmãs Oblatas do Santíssimo Redentor, OIKOS – Cooperação e Desenvolvimento, Saúde em Português, JRS Portugal – Serviço Jesuíta aos Refugiados/Associação Humanitária, and UMAR. In their comments on the draft report, the Portuguese authorities have added that in October 2016, IOM and the NGO Aktos became members of the RAPVT.

4. National Action Plan

28. The second National Action Plan against Trafficking in Human Beings ended in 2013. An external evaluation of its implementation was carried out by the University of Minho.¹⁴ **GRETA welcomes the fact that the implementation of the second National Action Plan was evaluated by an independent body.** The evaluation results were taken into consideration in the development of the third National Action Plan. According to the authorities, this resulted in the adaptation of certain measures, the revision of quantitative indicators and the importance given to research on new forms of THB. During the preparation of the third National Action Plan, NGOs were consulted and some of their suggestions were taken into account.

29. Portugal is currently implementing the third National Action Plan to prevent and combat trafficking in human beings (2014-2017), which was adopted by Council of Ministers Resolution No. 101/2013.¹⁵ It contains 53 measures in five strategic areas (prevention, awareness raising and research; education, training and qualification; protection, intervention and capacity-building; criminal investigation; and co-operation).¹⁶ Like the preceding National Action Plan, it is co-ordinated and monitored by the Commission for Citizenship and Gender Equality (CIG), which is supported by the Working Group referred to in paragraph 23. CIG develops an annual work plan for the execution of the National Action Plan, supervises the implementation of the measures contained in it, ensures the functioning of the Working Group, and prepares an annual report on the implementation of the plan's measures.

30. CIG is also responsible for co-ordinating the implementation of the fifth National Plan for Gender Equality, Citizenship and Non-discrimination (2014-2017) and the fifth National Plan to prevent and Combat Domestic and Gender-based Violence (2014-2017) and is tasked with implementing these plans and the anti-trafficking action plan in a co-ordinated manner.

5. Training of relevant professionals

31. In its first report, GRETA noted the need for further investment in continuous training of law enforcement officials, prosecutors, judges, labour inspectors, social workers and NGO representatives likely to come into contact with victims of THB. GRETA stressed that future training programmes should be designed with a view to improving the knowledge and skills of relevant professionals which enable them to identify, assist and protect victims of trafficking, and to secure convictions of traffickers. GRETA also invited the authorities to provide training to consular staff to make it easier for them to detect risks of THB during the visa application procedure, and to continue providing regular training to all professionals assisting victims of trafficking.

32. In their reply to GRETA's second round questionnaire, the Portuguese authorities have provided considerable information on training related to combating THB provided by different public bodies and NGOs.¹⁷ Whenever possible, a multi-stakeholder approach is promoted. By way of example, reference is made to the following training activities.

33. In 2014 and 2015, CIG organised a number of training sessions on THB for officials from the High Commission for Migration (ACM), officials from the municipalities of Lisbon and Cascais and health-care professionals, and supported other public and civil society actors in their training activities.

¹⁴ https://www.cig.gov.pt/wp-content/uploads/2013/12/relatorio_final_II_PNCTSH.pdf (in Portuguese); Executive Summary in English available at: http://www.cig.gov.pt/wp-content/uploads/2013/12/Executive_summary_II_PNCTSH.pdf.

¹⁵ Available at: https://www.cig.gov.pt/wp-content/uploads/2014/06/CIG-IIIPNPCTSH_2014-2017_ENG.pdf.

¹⁶ For more details, see pp 14-15 of the Portuguese authorities' reply to GRETA's 2nd round questionnaire, available at: <http://www.coe.int/en/web/anti-human-trafficking/portugal>

¹⁷ See pp 18-25 of the Portuguese authorities' reply to GRETA's 2nd round questionnaire.

34. The Observatory on Trafficking in Human Beings (OTSH) has been involved in the training of police officers, social workers, health-care professionals and NGO representatives in regions with particular risks of labour trafficking in the agricultural sector. The OTSH also presents on an annual basis a training session on THB to officials of the National Republican Guard and the unit for Criminal Sciences of the Institute for Military Studies. On request, the OTSH provides specific training to NGOs that have signed the memorandum of understanding on data collection with OTSH.

35. Following the 2012 Protocol concluded between the CIG and the Centre for Judicial Studies on reinforcing the training of judges and prosecutors on issues related to THB in the context of initial or in-service training, 378 judges and 580 prosecutors received training in 2012-2016.

36. The Immigration and Borders Service (SEF) has integrated in its training plan a programme on the subject of THB, based on the UNODC Anti-trafficking Manual for Criminal Justice Practitioners. In 2015, the Anti-Trafficking Unit of SEF provided training to 75 border officers. Further, in 2014, SEF started training border guards on the basis of the Frontex Anti-trafficking Manual for Border Guards. In 2016, 47 police officers received such training. In 2015, SEF provided training to staff working at national airports based on a training manual with specific modules for inspectors who perform control functions at the first border control line. Jointly with the National Commission for Protection of Children and Young People at Risk, SEF participated in a training-for-trainers on forced begging and child trafficking. Specific training modules for SEF officers performing the function of Immigration Liaison Officers at Portuguese diplomatic representations in Brazil, Angola, Senegal, Guinea-Bissau, Cape Verde and Russia were organised in 2015. A specific one-day training on the subject "Organised criminality: trafficking in human beings" was delivered to 45 officials who joined SEF in 2016.

37. Investigators of the Judicial Police receive initial and specialised training on THB and act as trainers for other law enforcement agencies, NGOs, municipalities and schools. In 2014 the National Republican Guard (GNR) held training sessions on THB for 90 officers, 150 sergeants and 871 guardsmen. Also in 2014, the Public Security Police developed two training programmes with a THB module and delivered it to 39 police trainers.

38. The Labour Conditions Authority (ACT) has a one-day training module on THB for labour inspectors which covers the detection of situations of human trafficking for the purpose of labour exploitation, referral of victims, applicable procedures and prevention of THB for the purpose of labour exploitation. The training course is based on the ILO Handbook on Forced Labour and Human Trafficking, which has been translated into Portuguese. From 2012 to 2014, ACT trained all 308 labour inspectors in Portugal on the basis of this training module. In 2015, 22 ACT officials from different regional offices received training on the national THB database.

39. The Diplomatic Institute of the Ministry of Foreign Affairs organises annually a training course for diplomats to be posted abroad, which includes the subject of human trafficking in relation to visa applications, fraud and illicit networks. Consular staff have access to on-line courses on visa granting, including practices for identifying fraud, and illicit networks and human trafficking. In 2015, the CIG and the OTSH were invited to give lectures at the Diplomatic Institute. The OSCE Handbook "How to prevent human trafficking for domestic servitude in diplomatic households and protect private domestic workers" was distributed to Portuguese diplomatic and consular missions abroad.

40. The interdisciplinary teams of health professionals for the prevention of violence (EPVA) that have been set up in primary health care and hospitals since 2013 are provided with initial and advanced training on domestic violence, gender violence and THB. This training is given to all members of the EPVA who later on act as trainers for other health-care professionals. The funding for this training is provided by the regional health services administrations.

41. The NGO Institute for Child Support (IAC) participated between 2013 and 2015 in the European project "Catch & sustain",¹⁸ which involved the creation and implementation of a training toolkit for social workers working with children vulnerable to THB. IAC's social workers working with children at risk and operating the hotline for missing children (116 000) were trained using this toolkit in September 2014.

42. Between 2012 and 2015, the Association for Family Planning (APF) and the four regional multi-disciplinary teams for assisting victims of THB held about 300 information and awareness-raising sessions about THB, for some 12 000 participants, including health-care professionals, social workers, police officers, NGO representatives, and vulnerable groups, such as migrant workers and sex workers.

43. From March 2010 to August 2014, the NGO OIKOS implemented two projects against human trafficking and labour exploitation. Within these projects, 29 training sessions were conducted for more than 500 professionals in the educational, social, health and business sectors. In the educational field, the purpose of the sessions was to train teachers with a view to including the issues of trafficking in human beings and labour exploitation in educational activities. In the social and health field, the purpose of the sessions was to train social and health workers to recognise, identify, report and manage potential cases of human trafficking and labour exploitation. In the business field, the purpose of the session was to help employers define human resources management strategies in a responsible way concerning human rights.

44. Further, in 2014, the NGO APAV organised training for 22 professionals from migrant associations, law enforcement agencies and municipal officials.

45. GRETA welcomes the efforts taken in Portugal to provide training concerning THB to a wide range of stakeholders, including health-care professionals, and invites the Portuguese authorities to pursue these efforts. The training should aim, *inter alia*, to increase the number of prosecutions and convictions of traffickers and guarantee effective access to compensation for victims of THB. GRETA also invites the authorities to evaluate the impact and cost effectiveness of the various training programmes.

6. Data collection and research

46. In its first evaluation report, GRETA welcomed the development of data collection on THB and invited the Portuguese authorities to ensure that statistical data is collected from all main actors, subject to the necessary measures to protect personal data.

47. The Observatory of Trafficking in Human Beings (OTSH) is responsible for collecting, analysing and disseminating information on THB. Currently 33 governmental bodies and NGOs feed data into the system on the basis of protocols concluded with the OTSH or through the protocol setting up the Network for Support and Protection of Victims of Trafficking (RAPVT). On the basis of the collected data, the OTSH produces confidential trimestral reports and a public annual report.¹⁹

48. The third National Action Plan foresees to make it mandatory to report to the OTSH court decisions in cases related to THB. In this context, the OTSH, the Ministry of Justice (Judiciary Police) and the General Prosecutor's Office have drafted a proposal for amending Decree-Law No. 229/2008 on the functioning of the OTSH.

¹⁸ The project was financed by the European Commission's Programme "Prevention of and Fight Against Crime Programme" (ISEC); its full title is "European Cross-Actors Exchange Platform for Trafficked Children on Methodology Building for Prevention and Sustainable Inclusion – CATCH & SUSTAIN".

¹⁹ Available at: <http://www.otsh.mai.gov.pt/Pages/default.aspx>

49. In 2013-2015, the OTSH co-ordinated the project "Towards a Pan-European Monitoring System on THB" (MoSy project), which was funded by the EU and involved other EU countries (Austria, Cyprus and Bulgaria). Its purpose was to create a transnational harmonised system for data collection, management and analysis, based on comparable indicators. In the framework of the project, guidelines for data providers, data collectors, focal points and statistical reporting were developed. In their comments on the draft GRETA report, the Portuguese authorities have indicated that the project's results were promoted at different international events as well as through bilateral meetings with representatives of Romania, France, Spain and Uzbekistan. Further, The OTSH has signed a protocol with the Ministry of Security of Bosnia and Herzegovina with the aim of improving the latter's data collection mechanism in line with the standards developed under the MoSy project.

50. GRETA welcomes the steps taken by the Portuguese authorities to develop and maintain a comprehensive and coherent statistical system on THB and invites them to continue their efforts in this field.

51. In its first evaluation report, GRTEA invited the Portuguese authorities to conduct and support research on THB issues, in particular as regards trafficking for the purpose of labour exploitation and child trafficking.

52. The CIG financed an empirical study by the University of Minho, entitled "Trafficking in Persons: from Signalling to Criminal Conviction", which explored the factors behind the low rate of convictions for the crime of trafficking in human beings in Portugal.²⁰

53. In the framework of the EU-funded project "Improving Monitoring and Protection Systems Against Child Trafficking and Exploitation" (IMPACT), which was implemented by four partner organisations in Cyprus, Greece, Italy and Portugal between September 2012 and February 2014, a comprehensive report concerning Portugal was elaborated and published in 2014.²¹ The Portuguese project partner was the Centre for Social Intervention Studies (CESIS). A number of public agencies, NGOs and international organisations participated in this project.²²

54. Portuguese NGOs and universities have participated in several projects financed under the EU's ISEC programme. The NGO European Anti-Poverty Network Portugal participated in the project "The third sector against forced begging" (2013-2015) carried out in five countries (Bulgaria, Italy, Portugal, Poland and Romania). In the framework of this project, a national research report concerning Portugal was published in September 2014.²³ In 2013-2014, the University of Coimbra led an 18-month programme on "Reviewing social auditing practices to combat exploitative brokering in Southern Europe" (ReSAurSE).²⁴ Further, the Centre of Social Studies of the University of Coimbra co-ordinated a research project entitled "The fight against trafficking in human beings in the EU: promoting legal cooperation and victims' protection" (THB: COOPtoFIGHT). Its aim was to identify good practices and gaps in the co-operation in the fight against transnational criminality.²⁵

²⁰ Available in Portuguese with an Executive Summary in English at: <http://cid.cig.gov.pt/Nyron/Library/Catalog/winlibsrch.aspx?skey=CDB781C63EB344EAAAE6D9208D065C7&cap=&pesq=10&var8=Publica%u00e7%u00e3o%20CIG&bo=0&var4=Estudos%20de%20G%u00e9nero&doc=96162>

²¹ Available (in English) at: http://www.cesis.org/admin/modulo_news/ficheiros_noticias/20140908180050-1impact_nacional_reportfinal.pdf.

²² Including CIG, OTSH, ACT, SEF, ACM, APF, CPR, IAC and IOM.

²³ Available (in English) at: <http://www.againstpushedbegging.eu/documents>.

²⁴ See <http://www.uc.pt/fpce/investigacao/projetos/resourse>.

²⁵ See <http://www.ces.uc.pt/projectos/thb/>.

55. The independent Institute for Strategic and International Studies has produced several studies on THB conducted with external financing. In addition to the publication of a report mapping the forms and extend of human trafficking in Portugal in 2012,²⁶ a new report entitled "Active communities against trafficking" was produced as part of a pilot project implemented in rural and urban communities.

56. The OTSH has signed protocols with university research centres and international organisations aiming at the promotion of research and knowledge on THB. A protocol with the Nova University of Lisbon provides for conducting a study on labour exploitation in the region of Alentejo, the results of which are expected in 2016. Another protocol with the Centre for Research and Studies in Sociology of the University Institute of Lisbon foresees the setting up of a database on THB research in Portugal.

57. The third National Action Plan foresees conducting two studies, one on new forms of trafficking in human beings and the other on recruitment via the Internet and social networks. The Portuguese authorities informed GRETA that the carrying out of these studies has been included in a project proposal entitled "Support of the EU-Brazil Common Agenda for Migration and Mobility", approval for which is pending.

58. **GRETA welcomes the above-mentioned efforts in the area of research and considers that the Portuguese authorities should continue to conduct and fund research on THB-related issues as an evidence base for future policy measures, in particular as regards trafficking in children and trafficking for the purpose of labour exploitation in different sectors, including in professional football.**

²⁶ Available in Portuguese at:

<http://www.poaatse.gren.pt/upload/docs/Diversos/ESTUDOS/PROJETO%20POAT%20%E2%80%93FSE%20NC2%BA%20170402009%20-%20Estudo.pdf>

III. Article-by-article findings

1. Prevention of trafficking in human beings

a. Measures to raise awareness of THB (Article 5)

59. In its first report, GRETA encouraged the Portuguese authorities to continue their awareness-raising efforts by launching new campaigns and supporting those organised by civil society, on the basis of an assessment of the impact of previous measures and targeting identified needs.

60. A national campaign against THB is conducted by the CIG on the occasion of the European Anti-Trafficking Day, 18 October, with a different focus every year. In 2012, the Blue Heart campaign was launched, using awareness-raising tools developed by the UN. In 2013, the campaign had three different awareness-raising priorities: sexual exploitation, labour exploitation and begging. In 2014, the focus of the campaign was on labour exploitation. While these campaigns aimed above all to raise awareness of human trafficking of foreign citizens into Portugal, some attention was also paid to trafficking of Portuguese citizens abroad.

61. According to an assessment carried out after the 2013 campaign, the phenomenon of THB was understood by more people. The television documentary *Novos Escravos* (New Slaves),²⁷ produced in partnership between CIG and the TV Channel SIC and shown in December 2013, was seen by some 1.8 million viewers and was considered to have influenced public opinion in an important way.

62. The national campaign in 2014 which focused on labour exploitation, in particular in the agriculture sector, distributed information via television, radio, regional press and announcements at railway stations and shopping malls. In order to assess the impact of the campaign, CIG conducted a survey with an online assessment questionnaire; 59% of those surveyed declared having noticed the campaign, in particular via TV, and 95% considered the campaign to be useful.

63. In addition, the NGO APF implements various awareness-raising activities on THB. For example, in the framework of the project "Pass the Word", it carried out awareness raising in schools in five districts in the north of Portugal, for a total of 828 children. Other activities have included the organisation of a contest and an exhibition as well as an online campaign targeting young people entitled *Traficado*. In 2014, the multi-disciplinary team in Porto (run by APF) organised a campaign targeting taxi drivers, which aimed at increasing their awareness of THB and improving the reporting of victims of sexual exploitation. Further, in 2014, APF produced a video and a brochure which were disseminated as part of the campaign entitled "Reserved – in the Name of a Victim of Trafficking".

64. As part of the Project *Briseis* which aims to involve the private sector in the fight against THB and at preventing the victimisation of vulnerable groups, the NGO APAV has been implementing since September 2013 an awareness-raising campaign through the Internet, mass media, as well as using TV and radio programmes.

65. Further, in the framework of the project *Mãos (Re)Forçadas* (see also paragraph 84), the NGO OIKOS organised activities to raise public awareness of human trafficking, labour exploitation and discrimination related to gender. In the period 2011-2014, a total of 61 information sessions with 2 032 young participants and three art workshops with 121 young participants took place.

66. GRETA welcomes the efforts made in Portugal to raise public awareness of THB for different forms of exploitation and to assess the impact of campaigns. GRETA invites the Portuguese authorities to continue their efforts, focusing on new trends and needs, and in the light of impact assessment of previous measures.

²⁷ <http://sicnoticias.sapo.pt/programas/osnovosescravos/2013-12-16-trafico-de-pessoas---os-novos-escravos>

b. **Measures to prevent THB for the purpose of labour exploitation (Article 5)**

67. The third National Anti-trafficking Action Plan envisages strengthening labour inspections with a preventive character, with a particular focus on high-risk sectors such as agriculture, hotels and entertainment. The plan also foresees the promotion of best practices in the area of corporate social responsibility. In this context, the Ministry of Economy organised a workshop in 2014, entitled "Good Practices of Corporate Social Responsibility - Awareness of Human Trafficking Prevention".

68. Further, the Ministry of Economy has produced a leaflet containing information on trafficking in human beings and drawing attention to warning signs in subcontracting and supply chains. The leaflet will be distributed by the network Corporate Social Responsibility which comprises private companies, public entities and non-governmental organisations.

69. As noted in paragraph 38, all 308 labour inspectors in Portugal have received training on THB for the purpose of labour exploitation by the Labour Conditions Authority (ACT). The main task of labour inspectors is to verify employers' conformity with labour law and health and safety regulations. They have the right to enter all premises except for domestic households for which they need the owner's authorisation or a judicial authorisation. In the last 20 years ACT has had a specific programme for inspecting the agriculture sector. Labour inspectors have been provided with a list of indicators of THB and "flagging cards" in several languages. Labour inspectors often carry out inspections jointly with the Judicial Police, the Immigration and Borders Service (SEF) or the National Republican Guard.

70. Temporary work agencies in Portugal have to be licenced and recruitment agencies need to fulfil certain minimum requirements. ACT's annual plans include two programmes related to the monitoring of private recruitment agencies and temporary work agencies. In November 2015, a protocol was signed with social and institutional partners in order to strengthen action against illegally acting recruiters. The first results are expected when ACT reports on the implementation of its 2016 annual plan.

71. In 2014 ACT implemented a national campaign against undeclared work, which involved several social and institutional partners and aimed at raising awareness among the general public, workers and employers about the risks and consequences of this phenomenon, and promoting decent work conditions for everyone.

72. Further, in 2014, SEF organised information meetings and conferences targeting businesses operating in sectors with high risk of trafficking in human beings for the purpose of labour exploitation, seeking to discourage the use of intermediaries that are not certified in Portugal. For example, the conference "New Migration Flows and THB", which was held in Beja, aimed to clarify the legal forms of recruitment of foreign nationals, identify mechanisms to better regulate the phenomenon and warn of the risks of irregular migration and human trafficking.

73. To inform migrants arriving in Portugal about the issue of THB, a five-language leaflet (in English, French, Spanish, Mandarin and Russian) was issued in October 2014. Following the identification of a considerable number of trafficked workers in Portugal's agricultural sector, SEF convened a meeting of agricultural businesses to address the issue of high seasonal demand for agricultural workers and resort to informal or unregistered recruitment agents or "labour providers", many of whom are based outside Portugal.

74. In reaction to cases of football players, some of them minors, having been identified as victims of THB for the purpose of labour exploitation, in 2015 SEF signed a protocol with the Portuguese Football Federation, the Portuguese Professional Football League and the Union of Professional Football Players. The protocol aims to promote collaboration, transparency and information-sharing between the parties with a view to preventing such cases in the future.

75. Civil society actors providing assistance to migrant domestic workers have referred to an increase in the number of such workers as well as of informal or unregistered agencies acting as "labour providers", suggesting that there might be a need for the authorities to address the issue of unregulated recruitment in Portugal.

76. In order to prevent trafficking of Portuguese citizens who seek work abroad, the Directorate General for Consular Affairs and Portuguese Communities launched in 2012 the information campaign "Working Abroad – Inform before Leaving", in partnership with other public bodies, including ACT. The campaign provides information on a website and several printed materials were produced: a manual and a leaflet "Working abroad", a leaflet "Posting of workers", and country-specific information leaflets "Working in..." concerning Angola, Australia, Brazil, Canada, France, Germany, Netherlands, Spain, Switzerland and the UK.

77. GRETA welcomes the measures already taken and considers that the Portuguese authorities should take further steps in the area of preventing trafficking for the purpose of labour exploitation, in particular by:

- **continuing to organise activities aimed at raising awareness on the risks of human trafficking for the purpose of labour exploitation, in particular among vulnerable groups;**
- **strengthening the monitoring of recruitment and temporary work agencies and reviewing the legislative and regulatory framework with a view to identifying any loopholes that may limit the impact of protection or preventive measures, in particular with regard to domestic workers;**
- **expanding the mandate of labour inspectors by adopting provisions that enable them to inspect domestic households if necessary;**
- **working closely with the private sector, in line with the Guiding Principles on Business and Human Rights.²⁸**

c. Measures to prevent trafficking in children (Article 5)

78. The third National Anti-trafficking Action Plan pays particular attention to the prevention of child trafficking, through educational actions for children and young adults.

79. In order to raise awareness among students and teachers, the Ministry of Education and Science produced an information document that was sent to all the primary and secondary schools. A leaflet on THB was produced by the Directorate General for Education (DGE). In 2015, 10 training sessions (of 50 hours each) involving around 200 teachers were organised on the topic "Education, Gender and Citizenship", including the issue of THB. More training sessions for teachers are foreseen. Further, an online platform is being prepared by DGE in order to disseminate and share projects on THB.

80. In 2013, the OTSH co-ordinated the development of a booklet and a leaflet on forced begging, with support from CIG.²⁹ This activity involved the National Commission for Protection of Children and Youth at Risk, the Institute of Social Security, the Judicial Police, SEF, the Prosecutor's Office, UNICEF and a number of civil society organisations. The materials were launched at the conference "Missing and Sexually Exploited Children". Further, in 2012, the OTSH organised an international conference "Domestic Servitude and Forced Begging: Invisible Forms of Trafficking for Labour Exploitation", with the support of the Portuguese Parliament's Committee on Constitutional Affairs, Rights, Freedoms and Guarantees, ILO, IOM and OSCE.

²⁸ http://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf

²⁹ <http://www.otsh.mai.gov.pt/Recursos/Pages/default.aspx>

81. A number of other projects are relevant to preventing child trafficking, for example, the project "European Cross-Actors Exchange Platform for Trafficked Children on Methodology Building for Prevention and Sustainable Inclusion - CATCH & SUSTAIN" (see paragraph 41); the project "Law Enforcement Agencies - Common Look on Children" (see paragraph 83); and the project "Improving Monitoring and Protection Systems against Child Trafficking and Exploitation" (see paragraph 53).

82. GRETA is not aware of particular problems in respect of ensuring the registration of children at birth in Portugal. Pursuant to the Civil Registration Code, births must be declared within 20 days. In case of a failure to declare a birth, the police authorities must report the case to the Head of the Civil Registry Office or the Prosecution Service.

83. The project "Law Enforcement Agencies – Common Look on children", which was developed by SEF together with the National Commission for the Protection of Children and Young People at Risk and the Social Security Service, includes a module on forced begging and child trafficking. The project includes training for law enforcement officers on optimised intervention as regards endangered children.

84. A number of activities on preventing child trafficking have been implemented by NGOs. By way of example, the NGO OIKOS implemented the projects "*(Es)forçadas e (Des) Iguais*" and "*Mãos (re)Forçadas: Against Human Trafficking and Labour Exploitation*" with the support of CIG and funding from the Operational Human Potential Programme. Within these projects, 21 training sessions were conducted for teachers in secondary schools, with 355 participants. Further, a pedagogical kit was developed, disseminated online and distributed to 500 schools and educational entities. In 2013, the NGO UMAR, together with the Italian NGO CISS, implemented the project "Youth's experiences on working on trafficking prevention: best practices exchange and mobility."

85. GRETA considers that the Portuguese authorities should continue their efforts in the area of prevention of child trafficking, by using the results of research on new trends, sensitising and training professionals working with children across the country, raising awareness through school education, and paying special attention to migrant children.

d. **Social, economic and other initiatives for groups vulnerable to THB (Article 5)**

86. In its first evaluation report, GRETA considered that the Portuguese authorities should step up the implementation of economic and social measures which address the underlying causes of THB.

87. The second National Action Plan for the Implementation of the United Nations Security Council Resolution 1325 (2000) on Women, Peace and Security (2014-2018) includes several relevant activities. Thus measure 7 envisages the development of training programmes on gender equality and violence against women and girls, including sexual violence, gender-based violence and trafficking in human beings, for executive and technical staff in the fields of justice, armed forces and security forces. Further, measure 14 aims to integrate the issues of gender and violence against women and girls, including domestic violence, harmful traditional practices and trafficking in human beings, as well as the protection of victims and the punishment of the perpetrators, into the context of the technical and legal co-operation with the ministries of justice, courts and criminal investigation entities of partner countries.³⁰

88. The Strategic Plan for Migration (see paragraph 97) includes a number of measures relevant to preventing THB of vulnerable groups. By way of example, measure 23 ("promoting the improvement of working conditions") envisaged the promoting of citizenship and gender equality through the integration of immigrants, combating illegal use of labour (particularly undeclared work), racial discrimination and trafficking in human beings.

³⁰ The 2015 Report regarding the 2nd National Action Plan for the Implementation of the United Nations Security Council Resolution 1325 (2000) on Women, Peace and Security (2014-2018) is available in Portuguese at: <https://www.cig.gov.pt/wp-content/uploads/2016/05/Relatorio-Intercalar-de-Execu%C3%A7%C3%A3o-do-II-PNAI-1325-2015.pdf>

89. Reference should also be made to *Progama Escolhas*, which is a national programme established in 2001 and promoted by the Presidency of the Council of Ministers and integrated in the High Commission for Migration, aiming to promote the social inclusion of children and young people from the most vulnerable socio-economic contexts. Five priority measures are envisaged: school inclusion and non-formal education; vocational training and employability; civic and community participation; digital inclusion; entrepreneurship and training. The programme targets in particular immigrants' descendants and children and young people from the Roma community who face problems such as early school drop-out, unemployment or being subjected to guardianship or protection measures.

90. GRETA welcomes the above-mentioned activities, which have the potential to addressing the root causes of THB. **GRETA considers that the Portuguese authorities should strengthen the prevention of THB through social, economic and other measures for groups vulnerable to THB, by promoting gender equality, combating gender-based violence, and supporting specific policies for the empowerment of women and children as a means of addressing the root causes of THB.**

e. **Measures to prevent trafficking for the purpose of organ removal (Article 5)**

91. GRETA notes that while trafficking in human beings for the purpose of organ removal as defined by the Convention and organ trafficking as defined by Articles 4 to 8 of the Council of Europe Convention against Trafficking in Human Organs³¹ are distinct crimes, they share similar root causes, such as shortage of organs to meet demand for transplantation and poor economic and other conditions that put persons in a vulnerable position. Therefore, measures to prevent organ trafficking can help prevent trafficking for the purpose of organ removal and the reverse is also true.³² Among the necessary preventive measures, GRETA underlines the importance of a robust and transparent domestic system for the removal and transplantation of human organs and the need for training of health-care professionals. GRETA also stresses the importance of conducting a thorough investigation of each case where there is information or suspicion of trafficking for the purpose of organ removal, paying attention to the abuse of the vulnerability of the "donor" and ensuring that "donors" are treated as victims of trafficking in human beings.

92. In Portugal, Law No. 36/2013 of 12 June 2013 lays down the quality and safety standards for human organs intended for transplantation into the human body. Articles 16 and 17 of this Law, combined with the provisions of Law No. 12/93 on Removal and Transplantation of Human Organs and Tissues, lay down the requirements concerning information and consent for donation and procurement of organs from living donors. The consent of both the donor and the receiver must be free, informed and unambiguous, and must be given before a physician nominated by the clinical director of the hospital where the transplantation takes place, who is not a member of the transplantation team. Consent by the donor or his/her legal representative is made in writing and can be withdrawn. The General Health Directorate and the General Health Inspectorate monitor compliance with the legal requirements. Only public health institutions have so far been certified to carry out transplantations. In 2015 Portugal signed the Council of Europe Convention against Trafficking in Human Organs. **GRETA encourages Portugal to ratify the Council of Europe Convention against Trafficking in Human Organs.**

³¹ Opened for signature in Santiago de Compostela on 25 March 2015.

³² See Council of Europe/United Nations, *Trafficking in organs, tissues and cells and trafficking in human beings for the purpose of the removal of organs*, 2009, in particular pages 55-56; OSCE, *Trafficking in human beings for the purpose of organ removal in the OSCE region*, OSCE Occasional Paper No. 6, 2013.

93. The third National Anti-trafficking Action Plan foresees research on new forms of THB, including THB for the purpose of organ removal. There is no training on THB for health professionals involved in transplantations as part of their in-service training. However, according to the authorities, medical doctors, nurses and others who work in organ transplantation often participate in training sessions concerning THB.

94. **GRETA considers that the Portuguese authorities should make further efforts to sensitise medical professionals involved in organ transplantations and other health-care professionals to THB for the purpose of organ removal.**

f. **Measures to discourage demand (Article 6)**

95. The Portuguese authorities have referred to the legal provisions adopted with a view to discouraging demand that leads to trafficking, in particular Article 160, paragraph 6, of the CC, which criminalises the use of services of a victim of trafficking while knowing that the person is a victim, and Article 185-A of the Immigration Law, which penalises the employment or use of services of an irregular foreign citizen, with the knowledge that he/she is a victim of offences related to human trafficking, (see paragraphs 166-167).

96. The national campaign on undeclared work referred to in paragraph 71, which was launched by the Labour Conditions Authority (ACT) in 2014, is relevant to discouraging demand. The campaign included 129 sessions with some 6 600 participants. ACT also takes part in awareness-raising sessions on preventing THB in companies. The Immigration and Border Service (SEF) also contributes to discouraging demand through awareness-raising campaigns targeting businesses in sectors with high risk of trafficking in human beings (see paragraph 72).

97. Further, the Strategic Plan for Migration (2015-2020) foresees measures that could indirectly lead to demand reduction. For example, measure 23 aims to improve working conditions by performing inspections at workplaces, promoting the integration of migrants, combating illegal use of labour, racial discrimination and human trafficking. The plan foresees 300 visits to workplaces per year.

98. A number of activities relevant to discouraging demand have been implemented by NGOs. By way of example, the training provided by the NGO APF to businesses and commercial or industrial associations draws attention to the risk of hiring of victims of trafficking. This activity has been carried out in districts with a higher risk of THB. Further, the previously mentioned project *Briseis* implemented by the NGO APAV (see paragraph 64), whose main objective is to engage the private sector in the fight against human trafficking for labour exploitation, has included training of private sector representatives and also aims to discourage demand for the use of the labour or services of trafficked persons.

99. **GRETA welcomes the above-mentioned activities and considers that the Portuguese authorities should increase their efforts to discourage demand for the services of trafficked persons, for all forms of exploitation, in partnership with civil society, trade unions and the private sector.**

g. **Border measures (Article 7)**

100. In its first report, GRETA considered that the Portuguese authorities should continue their efforts to detect cases of THB when carrying out border checks and that consular staff should be provided with training on detection of THB during the visa application procedure.

101. As noted in paragraph 36, border guards have received training on the identification of victims of THB and traffickers by the Anti-trafficking Unit of the Immigration and Borders Service (SEF). This training has reportedly contributed to the detection of presumed victims of THB at Portuguese airports. Thus in 2014, during border checks at Lisbon and Porto airports, several children originating from Angola were identified as presumed victims of THB for the exploitation of illegal activities en route for EU countries, in particular France and the UK. The investigations were concluded in 2015 and resulted in the prosecution of Portuguese and Angolan citizens. Further, investigations were launched concerning a criminal group organising the trafficking of Nigerian women and girls for the purpose of sexual exploitation.

102. **GRETA welcomes the efforts to improve the capacity of border police officers to detect and identify victims of trafficking and invites the Portuguese authorities to continue their efforts in this respect.**

2. Measures to protect and promote the rights of victims, guaranteeing gender equality

a. Identification of victims of THB (Article 10)

103. In its first report, GRETA urged the Portuguese authorities to ensure that all stakeholders involved in the identification of victims of trafficking adopt a more proactive approach and step up their outreach work. GRETA also called on the Portuguese authorities to ensure that in practice the formal identification of victims is dissociated from their participation in the investigation and court proceedings. Further, GRETA considered that the multi-disciplinary approach to victim identification should be strengthened by setting up multi-disciplinary teams in other parts of the country in addition to the one in Porto.

104. In 2013 the member organisations of the Network of Support and Protection to Victims of Trafficking (RAPVT) started to update the National Referral Mechanism (NRM) which had been set up in 2008 and mainly focussed on trafficking of women for the purpose of sexual exploitation. The revision took into account new trends in THB and enabled the adaptation of the NRM procedures to the legislative and institutional changes that had occurred since 2008. The revised NRM was approved in 2014.

105. The NRM defines the procedures related to reporting presumed victims, carrying out identification and assisting victims, assigning roles and responsibilities to the stakeholders involved. In addition to a flowchart describing the NRM,³³ guidelines for the reporting of presumed victims of trafficking have been issued. There are three practical tools for first level identification of victims of different forms of THB (respectively of sexual exploitation, labour exploitation, and forced begging and illicit activities), which were developed in the framework of the EU-funded project "Elaborating common guidelines and procedures for the identification of victims of trafficking" (CoGuideID-THB) in 2013.³⁴ These tools contain formalised indicators for the identification of victims of THB for different types of exploitation. The guidelines and practical tools have been distributed to all stakeholders involved in the NRM. Other relevant documents are the updated "Flagging card on THB", which contains basic information on THB and contacts for reporting presumed cases of THB, a leaflet for victims of trafficking explaining them their rights (in Portuguese, English, French, Romanian and Russian), and a Portuguese translation of the UNODC "First Aid Kit for use by Law Enforcement Responders in Addressing Human Trafficking".

³³ Available at: <http://www.otsh.mai.gov.pt/TSHEmPortugal/ModeloDeIntervencao/Pages/default.aspx> (in Portuguese)

³⁴ This project involved Bulgaria, France, Greece, Romania, Spain and the Netherlands, but the tool produced as a result of it has been used by other countries, including Portugal.

106. If a presumed victim is detected by any organisation involved in the NRM, the Observatory of Trafficking in Human Beings is informed. If the case is detected by an NGO and the presumed victim does not agree to co-operate with law enforcement, a multi-disciplinary team, a shelter or another organisation that can offer support is contacted and the person is referred to it. If the victim accepts to co-operate with law enforcement agencies, the relevant NGO informs the focal points of the Immigration and Borders Service (SEF) or the Judicial Police, which continue to be the only bodies that can formally identify victims of trafficking. When a presumed victim is detected by law enforcement agencies, he/she is referred to one of the multi-disciplinary teams which organises the provision of necessary assistance (see paragraph 115). According to the Portuguese authorities, the formal identification of a victim of THB is dissociated from his/her participation in the investigation and court proceedings.

107. Since GRETA's first evaluation, the number of specialised multi-disciplinary teams has increased from one to five. As noted in paragraph 27, in addition to the team in Porto which covers the north of Portugal, new teams have been set up to cover the central region of the country, the Lisbon area, the Alentejo region and, since 1 July 2016, the Algarve. The NGO APF runs the five multi-disciplinary teams. The multi-disciplinary teams have three members each, including psychologists and social workers. Their main task is to assist with the initial identification and reporting of victims of THB and co-ordinating the support provided to them. Further, the multi-disciplinary teams are actively engaged in awareness-raising and training activities. They have developed regional networks for victim assistance composed of members of relevant public bodies and NGOs. The funding of the teams is provided by the State Secretariat for Citizenship and Equality. At the time of GRETA's visit in April 2016, the financing period for the multi-disciplinary teams had expired. In their comments on the draft GRETA report, the Portuguese authorities indicated that a funding protocol had been signed by the State Secretariat for Citizenship and Equality until the end of 2016 and that in future, funding to the multi-disciplinary teams will be granted on an annual basis.

108. The GRETA delegation met the multi-disciplinary team responsible for the central region of Portugal, based in Coimbra, and representatives of its network consisting of 30 persons from 23 organisations (including administrations of municipalities, centres for social assistance and NGOs). GRETA notes that at the time of the visit, this multi-disciplinary team consisted of only two persons instead of the standard three.

109. As explained in paragraph 47, the OTSH keeps statistics on formally identified victims of THB and presumed victims of THB ("flagged cases"). For the latter category, the statistics are broken down according to the agency/organisation which flagged the presumed victim. In the period 2012 – first half of 2016, law enforcement agencies flagged a total of 175 presumed victims (including 88 Portuguese citizens). Foreign law enforcement agencies flagged 41 presumed Portuguese victims. The multi-disciplinary teams, NGOs and other stakeholders in Portugal flagged 188 presumed victims (including 46 Portuguese citizens). It transpires from these statistics that NGOs play an important role in detecting and referring presumed victims of trafficking.

110. There is no timeline for confirming if a presumed victim of THB is indeed a victim. The Portuguese authorities have indicated that the length of the identification procedure depends on the duration of the criminal investigation, which is linked to the complexity of the case. Hence, it is not possible to establish an average time for confirming if a person is a victim of THB.

111. As noted in paragraph 69, during inspections, labour inspectors have a checklist with indicators and "flagging cards" in several languages. Labour inspectors often carry out inspections jointly with the Judicial Police, the Immigration and Borders Service (SEF) or the National Republican Guard, but there is no experience of inspections carried out together with tax or revenue inspectors.

112. As regards the identification of victims of trafficking as part of the asylum process, GRETA was informed that the processing of asylum claims falls within the competence of SEF and the final decision on granting asylum or another form of international protection is taken by the Ministry of Internal Affairs. The NGO Portuguese Council for Refugees assists asylum seekers during the procedure. The Portuguese authorities informed GRETA that at least one criminal investigation procedure was started following the “flagging” by asylum officials of an undocumented young African woman who claimed to be a minor. She was reportedly notified of her rights as a presumed victim of THB, but refused any assistance other than that provided by the asylum system and subsequently disappeared from the asylum seekers’ accommodation facility. In this context, the Portuguese authorities have stressed that Portugal is seen as a transit country for other European destinations and many asylum seekers disappear shortly after being accommodated in asylum centres, which hampers their identification as victims of THB.

113. GRETA welcomes the updating of the National Referral Mechanism and the setting up of additional multi-disciplinary teams covering the country’s territory. **GRETA considers that the Portuguese authorities should continue to strengthen the multi-disciplinary approach to victim identification, by securing the funding and increasing the capacity of the multi-disciplinary teams, and ensure that the formal identification of victims of THB does not depend in practice on their co-operation with law enforcement agencies and on the presence of sufficient grounds to initiate a criminal case.**

b. **Assistance measures (Article 12)**

114. In its first report, GRETA urged the Portuguese authorities to provide appropriate and safe accommodation for victims of trafficking, including for men, and to ensure that the services are adapted to the specific needs of trafficking victims. Further, GRETA called on the Portuguese authorities to guarantee that adequate human and financial resources are allocated when assistance is delegated to NGOs as service providers.

115. As noted in paragraph 106, the regional multi-disciplinary teams co-ordinate the provision of assistance measures to victims of THB. Pursuant to Article 112 of Law No. 23/2007 on the Entry, Stay, Exit and Removal of Foreigners from Portugal, before the granting of a residence permit, victims of trafficking who are not EU-nationals have access to standards of living capable of ensuring their subsistence and access to emergency medical treatment. According to the Portuguese authorities, foreign victims have the same access to assistance as domestic victims and there is no distinction between EU and non-EU nationals as concerns the range of assistance measures they are entitled to. Victims are informed about their rights in a language they can understand and individual assistance plans are developed with their involvements. In collaboration with governmental and non-governmental organisations the victims are referred to structures that provide educational, health, economical, psychological and legal support.

116. At the time of GRETA’s first report, only one shelter for victims of THB existed in Portugal, run by the NGO APF and located in the north of Portugal. This shelter had a limited capacity and could accommodate only women (possibly with their children).³⁵ Two more shelters have been opened in the meantime, one for male victims (in 2013) and another one for women and their children (in 2014). One of the three existing shelters is financed by the state social security budget and the other two are financed from revenues generated by lotteries and other games, which are managed by the Secretary of State for Citizenship and Equality. The Portuguese authorities have indicated that presumed victims of trafficking who claim asylum would be offered accommodation in specialised shelters for victims of THB.

³⁵ See paragraphs 125-127 of GRETA’s first report.

117. The GRETA delegation visited the shelter for male victims of THB which had opened after the first evaluation visit. It is run by the NGO Saúde em Português. The shelter occupies a house and has a capacity of eight places (plus an additional place in case of emergency). From its opening in 2013 until the visit of the GRETA delegation in April 2016, 31 men had been accommodated in the shelter. At the time of GRETA's visit, six men were hosted (four Portuguese, one Brazilian and one Romanian). Five were presumed victims of THB for the purpose of forced labour and one had been detected in a slavery-like situation. They had been referred by the Judicial Police, SEF or the multi-disciplinary teams. The shelter was staffed around the clock and the staff team comprised social workers and lawyers. The average stay of the victims was one year, but in one case the victim had spent two years at the shelter. The shelter provides access to medical care, language courses, vocational training and assistance with finding jobs.

118. The GRETA delegation also visited the new shelter for women and their children in the south of Portugal, which is run by the NGO APAV. It is situated in a house with a courtyard located in a residential area, and there is a school nearby which the children can attend. The centre had a capacity of eight places and had accommodated 20 women since its opening in 2014. At the time of GRETA's visit, four women (from Ukraine, Cap Verde and Romania) and their three children were accommodated at the shelter. The women had been victims of sexual exploitation, labour exploitation, domestic servitude or forced marriage. The shelter employed five social workers and a lawyer and was staffed around the clock. APAV co-operates with a local health centre and a doctor periodically visits the shelter. The shelter develops a reintegration plan for every victim, helps with the development of linguistic and vocational competences, and assists with finding housing and work, in co-operation with the job centre. Women usually stay between eight months and one year at the shelter. In urgent cases the shelter can also accept child victims of trafficking for a few days before they are referred to child protection institutions.

119. GRETA welcomes the setting up of additional specialised shelters for victims of THB, including men. **Given the increasing number of presumed and formally identified victims of THB, GRETA considers that the Portuguese authorities should strengthen their efforts to ensure that all victims of trafficking receive adequate assistance and support, according to their needs. This should include measures to:**

- **provide a sufficient number of places around the country for all victims of trafficking who need safe accommodation;**
- **ensure adequate funding and staff to work with victims of THB and facilitate the reintegration of victims of trafficking into society by providing them with vocational training and facilitating their access to the labour market.**

c. **Identification and assistance of child victims of THB (Articles 10 and 12)**

120. In its first report, GRETA urged the Portuguese authorities to improve the assistance system for child victims of trafficking with regard to appropriate and safe accommodation and the introduction of medium and long-term support programmes appropriate to children's needs.

121. The reviewed NRM pays particular attention to children. When presumed child victims of trafficking are flagged, they are referred to the National Commission for the Protection of Children and Young People at Risk. As explained in the first evaluation report, in Portugal, there is a system for the protection of children at risk pursuant to Law 147/99 on the Protection of Children and Young People at Risk, last amended in September 2015, which, however, does not provide for specific measures for child victims of trafficking. There are still no specialised facilities for child victims of THB in Portugal. A victim of trafficking aged under 18 will receive assistance in the same way as any child at risk. There are three levels of intervention: at the local level (public and private institutions), at the level of the departmental committee for the protection of children at risk, or at judicial level, with the public prosecutor's office intervening in more complex cases. In the event of imminent risk, children may be subject to emergency placement at one of the children's shelters managed by the Portuguese social security system or by private bodies which receive funds from the social security system. Portuguese law stipulates that children at risk should, as far as possible, be represented by their parents or other members of their families. When this is not possible, the Prosecutor General's Office acts as their legal representative.

122. According to a report by the Fundamental Rights Agency (FRA) entitled "Guardianship systems for children deprived of parental care in the European Union with a particular focus on their role in responding to child trafficking", in Portugal the appointed guardian (*guardião*) represents the child in different legal proceedings while a so-called tutor (*tutor*), who is appointed by the Family and Minors Court, exercises other parental rights and duties of child care. Guardianship duties are in practice exercised by the director of the institution where the child is placed under care. In practice, the related duties are performed on a daily basis by staff of the institution, following instructions by the director. There is no deadline for the appointment of a guardian. There is no legal provision concerning the appointment of legal guardians for child victims of THB, but the Portuguese authorities have affirmed that the existing system provides a comprehensive response and is able to secure the interests of the child victims of THB.³⁶

123. In the period 2012 to June 2016, a total of 36 children (32 girls and four boys) were formally identified as victims of trafficking (31 of them were aged 10-17 and five were younger than 10). Most of the children originated from Nigeria (15), Angola (10), Guinea-Bissau (three) and Bulgaria (three). There were no Portuguese children among the victims. Most of the children were trafficked for the purpose of sexual exploitation, but there were also three victims of THB for the purpose of labour exploitation and two for the exploitation of criminal activities.

124. The GRETA delegation visited the Accommodation Centre for Refugee Children run by the NGO Portuguese Council for Refugees (CPR), which accommodates all unaccompanied asylum-seeking children in Portugal. The centre was opened in October 2012. It is located in a freshly renovated building situated within a park in Lisbon. It is financed by the Ministry of Interior and the municipality of Lisbon. The number of children accommodated was 12 in 2012, 55 in 2013, 38 in 2014, 56 in 2015 and 23 until April 2016. In addition to the centre's staff (a Director, a social worker, an assistant and a cook), CPR staff and volunteers work at the centre and provide lessons in Portuguese, help with homework, psychological counselling and legal assistance. The centre's staff has received training on THB. The children can stay at the shelter as long as necessary and are subsequently moved to protected housing with 24-hour staff presence. Pursuant to Law 147/99 on the Protection of Children and Young People at Risk, children are entitled to protection and aftercare until they reach the age of 21.

³⁶ The FRA report is available at: https://ec.europa.eu/anti-trafficking/sites/antitrafficking/files/guardianship_systems_for_children_deprived_of_parental_care_in_the_european_union_en.pdf

125. According to the centre's staff, some of the children showed signs of trafficking. In case of indicators of THB, staff inform SEF, the OTSH and the competent court. GRETA was informed that children showing signs of possible trafficking often disappear from the centre within a few days. Some return later and ask for support. In 2016, there were nine cases of children who left the centre without notice (three from Ivory Coast and one each from Sierra Leone, Democratic Republic of Congo, Congo-Brazzaville, Cameroon, Guinea and Mali). When a minor disappears from the Centre this is immediately reported to the police and registered in the Schengen Information System. When there is a suspicion of child trafficking, the facts are communicated to the prosecutor and an investigation is started. However, no unaccompanied asylum-seeking children have been identified as presumed victims of trafficking.

126. GRETA refers to the 2014 report by the UN Committee on the Rights of the Child which expressed serious concerns that Portugal has not adopted adequate and appropriate measures for the recovery and reintegration of child victims of offences, including victims of trafficking for sexual exploitation and forced labour. The Committee considered that that medium- and long-term rehabilitation programmes appropriate to children's needs and counselling services for all child victims were largely inadequate and that appropriate accommodation for child victims, especially child victims of trafficking, were unavailable.³⁷ GRETA also notes that the UN Committee on the Rights of the Child, in its 2014 Concluding Observations on the combined third and fourth periodic reports of Portugal,³⁸ expressed concerns as regards the situation of refugee and asylum seeking children in the asylum application process such as overcrowding of reception centres, lengthy and inadequate procedures regarding unaccompanied children, lack of adequate staffing and ineffective access to asylum.

127. The method of age assessment is not stipulated in law but in practice, an X-ray of the wrist is used. GRETA notes that this method of age assessment does not take into account psychological, cognitive or behavioural factors. According to the authorities, if there are doubts concerning the age of a victim, he/she is presumed to be a child. **GRETA invites the Portuguese authorities to review the age assessment procedures with a view to ensuring that the best interests of the child are effectively protected, taking into account Article 10, paragraph 3, of the Convention, the Convention on the Rights of the Child and General Comment No. 6 of the Committee on the Rights of the Child.**³⁹

128. **GRETA urges the Portuguese authorities to make efforts to improve the identification of, and assistance to, child victims of trafficking, in particular by:**

- **ensuring that relevant actors take a proactive approach and increase their outreach work to identify child victims of THB, by paying particular attention to migrant children and unaccompanied foreign minors;**
- **providing further training and guidance to stakeholders (police, child protection authorities, social workers, NGOs) for the identification of child victims of THB for different forms of exploitation;**
- **providing adequate support and services which are adapted to the needs of child victims of trafficking, including appropriate accommodation, access to education and vocational training;**

³⁷ UN Committee on the Rights of the child, Concluding observations on the report submitted by Portugal under the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography, CRC/C/OPSC/PRT/CO/1, paragraph 35.

³⁸ CRC/C/PRT/CO/3-4, paragraph 61.

³⁹ [General Comment No. 6 Treatment of unaccompanied and separated children outside their country of origin](#), Committee on the Rights of the Child, Thirty-ninth session, 17 May - 3 June 2005.

- **taking steps to address the problem of unaccompanied minors disappearing by providing suitable safe accommodation and adequately trained supervisors or foster parents;**
- **ensuring the timely appointment of guardians, including by reviewing the legal provisions in this regard;**
- **ensuring long-term monitoring of the reintegration of child victims of trafficking.**

d. **Protection of private life (Article 11)**

129. Article 88, paragraph 2, alinea c, of the Code of Criminal Procedure explicitly prohibits publicising the identity of victims of human trafficking. The Observatory of Trafficking in Human Beings (OTSH) does not register personal data in the database set up under the national monitoring system on THB. If the OTSH is contacted anonymously, depending on whether the presumed victim wants to press charges or seeks help, the OTSH refers him/her to a law enforcement agency, a multi-disciplinary team or and NGO.

130. THB investigations are usually classified under judicial secrecy and no information on them is made public. The victims' personal data are stored in databases that are only accessible to authorised staff. The relevant legislation is Law No. 67/98 on Personal Data Protection, Decree-Law No. 352/99 on Data Files of the Judicial Police and Law No. 73/2009 on Data Access by Law Enforcement Agencies. Other relevant measures which concern witness protection are referred to in paragraphs 186-187.

e. **Recovery and reflection period (Article 13)**

131. In its first evaluation report, GRETA welcomed the provision in Portuguese law of a recovery and reflection period longer than the minimum of 30 days envisaged in the Convention and urged the Portuguese authorities to ensure that victims of trafficking are systematically informed of the possibility of being given a recovery and reflection period and are effectively granted such a period.

132. The legal provisions governing the recovery and reflection period have not changed since GRETA's first evaluation.⁴⁰ Pursuant to Law No. 23/2007 on the Entry, Stay, Exit and Removal of Foreigners from Portugal, as amended though Law No. 29/2012, only third-country nationals are entitled to a recovery and reflection period, the duration of which is a minimum of 30 days and a maximum of 60 days. Regarding EU nationals, since they do not need a visa to remain in Portugal, the recovery and reflection period is not applicable. During this period, no expulsion order may be enforced. Persons granted a recovery and reflection period are entitled to emergency medical treatment, psychological assistance, protection, interpretation and legal assistance. When the victim is a child, the period may be further extended if this is in the child's best interests.

133. The Immigration and Borders Service (SEF) has issued a leaflet with information on the rights of victims under the immigration legislation, including information regarding the recovery and reflection period, which is available in English and French and will also be translated into Spanish, Mandarin and Russian.

134. According to information provided by the Portuguese authorities, 38 victims of THB were granted a recovery and reflection period in 2013 and 44 in 2014. In 2015 and the first nine months of 2016, SEF granted a recovery and reflection period to a total of 60 victims of trafficking.

⁴⁰ See paragraph 135 of GRETA's first report on Portugal.

135. GRETA stresses once again the importance of the recovery and reflection period for the recovery of victims and their effective access to the ensuing rights; as such, it should be granted to any presumed or identified victim of trafficking in human beings. Considering that after three months EU citizens can only stay legally in other EU countries provided they meet a number of requirements (e.g. economic activity, sufficient resources, being enrolled as a student), the possibility that they would be considered as being irregular cannot be excluded and they should logically be entitled to enjoy a recovery and reflection period. In their comments on the draft report, the Portuguese authorities have stated that all presumed foreign victims of trafficking, including EU/EEA nationals, have the right to a recovery and reflection period. According to the Portuguese authorities, the granting of the recovery and reflection period is independent of the victim's co-operation and is offered before any formal statement to the investigators is made.

136. GRETA invites the Portuguese authorities to continue taking steps to ensure that all presumed foreign victims of trafficking, including EU/EEA nationals, are offered a recovery and reflection period and all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period. Staff performing identification should be issued with clear instructions stressing the need to offer the recovery and reflection period as defined in the Convention, i.e. not making it conditional on the victim's co-operation and offering it to victims before formal statements are made to investigators.

f. Residence permits (Article 14)

137. In its first report, GRETA invited the Portuguese authorities to ensure that victims of trafficking can fully benefit from the right to obtain a renewable residence permit, particularly when they are unable to co-operate with the authorities.

138. The law regulating the issuing of residence permits to victims of THB has remained unchanged since the first evaluation.⁴¹ Article 109 of Law No. 23/2007 on the Entry, Stay, Exit and Removal of Foreigners from Portugal provides for a residence permit to be issued upon expiry of the recovery and reflection period under three cumulative conditions: it is necessary to extend the residence of the person concerned on the national territory, account being taken of the potential benefit of his/her presence for the purposes of the investigation and criminal proceedings; the person clearly expresses his/her intention to co-operate with the authorities to facilitate the investigation; the person has ceased all relations with the persons suspected of having committed the offence concerned. A residence permit may be issued to a victim failing to meet the criteria of Article 109 of the Law No. 23/2007 if this is justified by the personal situation of the victim or of members of his/her family, particularly with regard to the security, health, family situation or vulnerability of those persons.⁴² The conditions that his/her presence on Portuguese territory must be of benefit for the purposes of the investigation or for judicial purposes and that he/she must co-operate with the authorities do not apply in such cases. The victim must nevertheless have ceased all relations with the alleged traffickers. Residence permits are issued by the Ministry of the Interior, at its own initiative or at the request of a law enforcement agency or the National Co-ordinator/Rapporteur.

139. According to information provided by the Portuguese authorities, two victims of human trafficking (from Brazil and China) received residence permits in 2012, one (from Angola) in 2013 and one (from Nigeria) in 2014. Three of the victims were male and one was female. No residence permits were issued to victims of THB in 2015. In 2016, by the time of the adoption of this report, 23 residence permits had been issued.

⁴¹ See paragraphs 139-143 of GRETA's first report on Portugal.

⁴² Pursuant to Decree-Law No. 368/2007 on the conditions for granting a reflection period and a residence permit to foreigners identified as victims of trafficking in human beings who are unwilling or unable to co-operate with the justice system.

140. Further, the Portuguese authorities informed GRETA that three Nigerian women who were victims of THB had been granted subsidiary protection in the period 2012-2016 (one in 2013 and two in 2014).

141. GRETA welcomes the possibility in Portuguese law to grant a residence permit to victims of THB both on the basis of their personal situation and for their co-operation with the competent authorities. **GRETA considers that the Portuguese authorities should take further steps to ensure that victims of trafficking can fully benefit from the right to obtain a residence permit, particularly when they are unable to co-operate with the authorities.**

g. **Compensation and legal remedies (Article 15)**

142. The legal framework for compensation of victims of THB in Portugal has remained unchanged since GRETA's first evaluation.⁴³ Portuguese legislation provides for two possibilities for compensation of victims. The first is through criminal proceedings where the victim can file a civil claim against the offender (pursuant to Article 71 of the Code of Criminal Procedure). If the offence is proven, the court can order the offender to pay damages to the victim.

143. The second venue for compensation is from the State pursuant to Law No. 104/2009 on the Compensation to Victims of Violent Crime and Domestic Violence. State compensation is awarded by the Commission for the Protection of Victims of Crime, which comes under the Ministry of Justice. If the offender does not have financial means to compensate the victim, the latter can submit a request to the Commission for the Protection of Victims of Crimes which, after reviewing the request, assigns to the victim a part of the sum of the compensation to which the offender was fined in court. If the victim has suffered serious damage that put him/her in a situation of severe economic deprivation, he/she can directly apply for State compensation in order to rebuild his/her life. State compensation may be granted even if the identity of the offender is unknown or the offender cannot be charged. It is not necessary for the victim to be on Portuguese territory. Compensation is awarded on three cumulative conditions: the victim has a temporary or permanent incapacity for work lasting at least 30 days; the victim's life is severely disrupted; and it cannot reasonably be expected to obtain redress from the offender or another source.

144. The Portuguese authorities have indicated that the victim's return to the country of origin is not detrimental to the right to compensation as long as the crime was committed in Portugal. According to the authorities, a request can be submitted from abroad to the Commission for the Protection of Victims of Crimes. Alternatively, the request can be sent to the relevant structure in the country of residence of the victim, which would transfer it to the Portuguese Commission for the Protection of Victims of Crimes. If the victim is a child lacking legal representation in the proceedings as regards his/her civil rights, it is incumbent on the Public Prosecution Service to submit a claim for compensation on behalf of the child.

⁴³ See paragraphs 148-151 of GRETA's first report on Portugal.

145. The Commission for the Protection of Victims of Crimes has data only on victims who did not obtain compensation from the perpetrators and applied to the State for such compensation to be paid. No data is available on victims who effectively received compensation from the perpetrators. In the year 2014, two victims of THB requested compensation from the State. One lodged the claim after the final judgment. In this case, the offender manifestly did not have the means to compensate the victim, and the State, at the victim's request, assumed the payment of 50% of the damages ordered by the court. In this case the victim had suffered serious injuries and received 15 000 Euros. The second case concerned a foreign victim who managed to escape from a trafficking network, was in a situation of severe economic deprivation and requested compensation from the Commission. This victim was awarded compensation equivalent to the national minimum wage (505 Euros per month), paid monthly, for a period of six months (3 030 Euros in total). In 2015 a victim of trafficking for the purpose of sexual exploitation who was also subjected to physical violence was granted 14 500 Euros. There were no requests for State compensation from victims of THB in 2016.

146. With a view to informing victims of THB of the right to compensation, a brochure explaining the provisions of the Law on the Compensation to Victims of Violent Crime and Domestic Violence has been issued. It is available in five languages (English, Portuguese, Romanian, Russian and French) and has been provided to all members of the RAPVT as well as relevant public bodies who can distribute it to victims of trafficking. Further, the NGO UMAR has translated into Portuguese and published the "Guidance on representing trafficked persons in compensation claims. A practical tool for lawyers, counselling centres and service providers" developed by COMP.ACT.⁴⁴

147. As explained in GRETA's first report, legal aid is financed by the social security system and applications must be made to local social security offices. The multi-disciplinary teams inform victims about their right to legal aid and help them with filling out the applications that are submitted to local social security services.

148. Following a 2013 amendment, Article 17, paragraph 2, alinea c, of Law No. 45/2011 setting up an Asset Recovery Office under the Criminal Police provides that confiscated assets derived from THB offences are transferred to the co-ordinating entity of the National Anti-trafficking Plan (i.e. to CIG) and are intended to support prevention programmes regarding trafficking in human beings and measures to support and protect victims of THB.

149. While welcoming the provision of information on the right to compensation and the fact that there have been some compensation awards from the State to victims of THB, GRETA remains concerned by the low number of victims who have received compensation. **GRETA urges the Portuguese authorities to take steps to facilitate and guarantee access to compensation to victims of THB, and in particular to:**

- **enable victims of trafficking to exercise their right to compensation, by making available free legal aid to support victims to claim compensation;**
- **include victim compensation in training programmes for law enforcement officials, prosecutors and judges;**
- **make full use of the existing legislation on the freezing and forfeiture of assets to secure compensation to victims of trafficking.**

150. **Further, GRETA invites the Portuguese authorities to collect court statistics on compensation claims brought by victims of trafficking and the amounts granted.**

⁴⁴ http://www.ungift.org/doc/knowledgehub/resource-centre/CSOs/Guidance_on_representing_trafficked_persons_in_compensation_claims.pdf

h. Repatriation and return of victims (Article 16)

151. In its first report, GRETA considered that the Portuguese authorities should ensure that victims of trafficking have effective access to return and repatriation procedures which take due account of their rights, security and dignity. Further, GRETA stated that the Portuguese authorities should develop co-operation with countries of return, in order to conduct an appropriate risks assessment, ensure victims' safety on their return and improve their reintegration.

152. The procedure for returning victims of THB is included in the reviewed National Referral Mechanism. The NGO APF, which runs the multi-disciplinary teams, is in charge of co-ordinating the return of victims of THB, if necessary in co-operation with CIG. It is part of the responsibilities of the multi-disciplinary teams to provide psycho-social support to victims who wish to return, to organise the financial, security and logistical aspects of the journey and to liaise with relevant organisations in the country of return. According to the authorities, risk assessment is carried out by the multi-disciplinary teams, based on information obtained from the police. Contacts are made with the authorities and non-governmental organisations in the country of return in order to assess the support that would be provided after the return. The Office of the National Rapporteur, IOM, diplomatic representations and NGOs are frequently involved in the risk assessment and the preparation of the return.

153. As mentioned in GRETA's first evaluation report, the Immigration and Borders Service (SEF) and IOM have signed a Protocol on the Assisted Voluntary Return of foreigners to which victims of THB have priority access. Further, the Portuguese authorities participated in IOM's CARE Project (2013-2015), which aimed to implement a co-ordinated and integrated approach to the return of THB victims to non-EU countries. One of the findings of the CARE project was that that the national stakeholders assisting victims of trafficking have little knowledge of the return process and that the bodies organising return have little knowledge of THB.

154. There is a high ratio of EU nationals among the victims of trafficking who were returned to their countries of origin. In the period 2013-2015, out of 80 returned persons, 74 were from EU countries, including 73 Romanian nationals. EU victims have no access to IOM's voluntary assisted return programme and ad-hoc solutions have to be found for their return. The authorities informed GRETA that in 2013 the return of several victims was paid by the social security. IOM reported that it funded the return of nine Romanian citizens at the beginning of 2015 on an ad-hoc basis. The Romanian government has also paid for the return of its citizens from Portugal. In 2015 the Secretary of State of Citizenship and Equality approved a budget of 15 000 Euros for the voluntary assisted return of EU victims. NGOs reported difficulties in organising the return of EU nationals, in particular finding the right interlocutors and funding for the return. According to the authorities, all returns of EU nationals are supervised by multi-disciplinary teams and there is co-operation with partners in the return country in each case.

155. GRETA is concerned that despite the fact that the return of victims of trafficking is part of the reviewed NRM, when it comes to EU nationals, who represent the majority of returned victims, there is no standardised return procedure, many stakeholders lack sufficient knowledge about return procedures, and no long-term funding is secured.

156. **GRETA urges the Portuguese authorities to establish repatriation programmes that ensure that the return of victims of THB is preferably voluntary, and is conducted with due regard to their rights, safety and dignity, including the right to *non-refoulement* and, in the case of children, by fully respecting the principle of the best interests of the child.** In this context, the Portuguese authorities should give full consideration to the UNHCR's Guidelines on the application of the Refugees Convention to trafficked people and their possible entitlement to asylum when deciding upon applications for asylum of persons who are at risk of being re-trafficked or otherwise persecuted should they be obliged to return to their State of origin or residence. In the framework of repatriation programmes, risk assessments should be made with a view of preventing re-trafficking, especially in the case of child victims. Further, a procedure for arranging the voluntary return of EU nationals should be introduced and all relevant stakeholders should receive information and, if necessary, training on the implementation of this procedure.

3. Substantive criminal law

a. Criminalisation of THB (Article 18)

157. In its first report, GRETA considered that slavery and practices similar to slavery and servitude should explicitly be included as the forms of exploitation in the definition of human trafficking in the Criminal Code. Further, GRETA stressed that stating explicitly the irrelevance of the consent of a victim of trafficking to the intended exploitation could improve the implementation of the anti-trafficking provisions. Moreover, GRETA noted that the Portuguese authorities should include as aggravating circumstances all situations envisaged under Article 24 of the Convention.

158. As noted in paragraph 18, the recommendations made in GRETA's first report concerning the criminalisation of THB have been reflected in the Portuguese CC through amendments made in 2013. Article 160 (Trafficking in Persons) of the CC reads as follows:

- "1. Whoever offers, delivers, recruits, entices, accepts, transports, harbours or houses a person for the purpose of exploitation, including sexual exploitation, labour exploitation, forced begging, slavery, removal of organs or the exploitation of other criminal activities,
- a) by violence, abduction or serious threat;
 - b) by fraudulent ruse or manipulation;
 - c) with abuse of authority resulting from a relationship of hierarchical, economic, work or family dependence;
 - d) by taking advantage of the mental incapacity or situation of special vulnerability of the victim; or
 - e) through obtaining consent from the person who has control over the victim;

will be punished with a prison term of from three to 10 years.

2. The same punishment is applied to whoever, through any means, recruits, entices, transports, proceeds to harbouring or housing a minor, or delivers, offers or accepts him/her for the purpose of exploitation, including sexual exploitation, labour exploitation, forced begging, slavery, removal of organs or the exploitation of other criminal activities.

3. In the case set forth in the previous paragraph, if the agent uses any of the means set forth in the subsections of paragraph 1 or acts professionally or with the intention of monetary gain, he/she will be punished with a prison term of from three to 12 years.

4. The above penalties are increased by 1/3 (in their minimum and maximum) if the conduct mentioned has:

- a) endangered the victim's life;

- b) been committed with special violence or has caused particularly serious harm to the victim;
 - c) been committed by a public official in the exercise of his/her duties;
 - d) been committed within the framework of a criminal organisation; or
 - e) has resulted in the suicide of the victim.
5. Whoever, through payment or other reward, offers, delivers, solicits or accepts a minor, or obtains or gives consent for his/her adoption, will be punished with a prison terms of from one to five years.
6. Whoever, having knowledge of the practice of the crime set forth in paragraphs 1 and 2, uses the services or organs of the victim, will be punished with a prison term of from one to five years, if a longer term is not provided under another legal provision.
7. Whoever retains, conceals, damages or destroys the identification or travel documents of a person who is a victim of the crime set forth in paragraphs 1 and 2 will be punished with a prison term of up to three years, if a longer term is not provided under another legal provision.
8. The victim's consent to the crimes set forth in the previous paragraphs does not exclude the wrongfulness of the act."

159. As a result of the 2013 amendment of the CC, the list of forms of exploitation in Article 160 of the CC has been expanded to include forced begging, slavery and the exploitation of criminal activities. GRETA notes that "practices similar to slavery" and "servitude" have not been included. According to the Portuguese authorities, Article 160 of the CC would in practice rarely apply in cases of slavery, practices similar to slavery and servitude due to the existence of a distinct offence of "slavery" in Article 159 of the CC. The latter offence does not require the use of any means and carries more severe penalties than human trafficking (5 to 15 years' imprisonment), therefore it would have priority application. The authorities have added that the list of forms of exploitation in Article 160 of the CC is not exhaustive, which makes it possible to cover forms of exploitation which are not explicitly mentioned, including practices similar to slavery and servitude.

160. GRETA notes that the European Court of Human Rights found that the concept of "servitude" in Article 4 of the ECHR prohibits "a particularly serious form of denial of freedom". It includes, "in addition to the obligation to provide certain services to another ... the obligation on the 'serf' to live on the other's property and the impossibility of changing his status". The Court also recognised "domestic servitude" as a specific offence "which involves a complex set of dynamics, involving both overt and more subtle forms of coercion, to force compliance".⁴⁵ As regards "practices similar to slavery", GRETA notes that four such practices are defined in Article 1 of the United Nations Supplementary Convention on the Abolition of Slavery.⁴⁶

161. Forced marriage is criminalised as a distinct offence under Article 154-B of the CC. According to the Portuguese authorities, forced marriage could be regarded as a form of exploitation in the context of human trafficking if the other elements of the trafficking offence are present (such as the use of means, e.g. abuse of power deriving from a hierarchical, economic, labour or family dependence or taking advantage of the victim's mental incapacity or situation of special vulnerability).

⁴⁵ See *Siliadin v. France*, application no. 73316/01, ECtHR judgment of 26 July 2005, paragraph 123; *C.N. and V v. France*, application no. 67724/09, ECtHR judgment of 11 October 2012; *CN v. UK*, application no. 4239/08, ECtHR judgment of 13 November 2012.

⁴⁶ United Nations Supplementary Convention on the Abolition of Slavery the Slave Trade and Institutions and Practices Similar to Slavery; the four practices similar to slavery mentioned in the Convention are debt bondage, serfdom, the inheritance of widows and other sales of brides, and sale of children.

162. In line with GRETA's recommendation, the irrelevance of the victim's consent is now explicitly stated in the new paragraph 8 of Article 160 of the CC.

163. Further, following up on GRETA's recommendation, a list of aggravating circumstances, including the ones listed in Article 24 of the Convention, has been added as a new paragraph 4 of Article 160 of the CC.

164. GRETA welcomes the legislative amendments to the criminal law provisions on trafficking in human beings. **Nevertheless, GRETA considers that explicitly including "servitude" and "practices similar to slavery" in the list of forms of exploitation under Article 160 of the CC could contribute to the practical and effective protection against treatment contrary to the Council of Europe Convention on Action against Trafficking in Human Beings.**

b. Criminalisation of the use of services of a victim (Article 19)

165. As mentioned in GRETA's first report, in Portugal the use of the services or organs of a victim of trafficking, with the knowledge that the person was trafficked, is punishable by a prison sentence of between one to five years (Article 160, paragraph 6, of the CC).

166. Further, by Law No. 29/2012, a new Article 185-A was added to Law No. 23/2007 on the Entry, Stay, Exit and Removal of Foreigners from Portugal entitled "Using the activity of an illegally staying foreign citizen". It stipulates that the employer or another person using the work or services of an irregular foreign citizen, with the knowledge that the latter is a victim of offences related to human trafficking, shall be punished by a prison term of from two to six years.

167. The Portuguese authorities did not have information about any convictions under the above provisions. However, they noted that they were attentive to such situations and the need to ascertain the potential criminal liability of users of services rendered by victims, even though there is usually lack of evidence that the users were aware that the services were rendered by victims of THB.

c. Corporate liability (Article 22)

168. As described in the first evaluation report, in accordance with Article 11, paragraph 2, of the CC, legal and equivalent entities, with the exception of central government, other public-law legal entities⁴⁷ and international organisations, may be held responsible for the offences defined in Article 160 of the CC if these are committed: (a) for their own account and in the collective interest by persons holding management authority within them; (b) by any person acting under the authority of the persons mentioned in (a) because of a failure to fulfil the obligations of supervision or control devolving on them. The main penalties applicable to legal entities are fines and closure.⁴⁸

169. The Portuguese authorities have indicated that at least in two cases of trafficking for the purpose of labour exploitation, tried by the County Court of Beja, small enterprises were convicted and imposed the sanction of closure.⁴⁹

⁴⁷ Within the meaning of criminal law, "public-law legal entities" are those legal entities governed by public law, particularly public undertakings; public service providers, irrespective of ownership; other legal entities which exercise public authority.

⁴⁸ The following additional penalties may also be imposed on them: court order; prohibition of activity; prohibition of entering into certain kinds of contracts or of the conclusion of contracts with certain entities; loss of entitlement to subsidies or incentives; closure of the establishment; publication of the judgment.

⁴⁹ Case No 150/12.0JAFAR County Court of Beja – 1st Chamber; Case No 22-13.1ZCLSB BEJA – I - J2 – County Court of Beja.

170. **GRETA welcomes the application of the corporate liability provisions in THB cases and invites the Portuguese authorities to carry out a review of the application of these provisions with a view to improving their practical application.**

d. Non-punishment of victims of THB (Article 26)

171. In its first report, GRETA expressed concern that the absence of a specific provision on non-punishment of victims of trafficking who have taken part in unlawful activities under duress entails a risk of treating them differently depending on the prosecutor in charge of the case. GRETA invited the Portuguese authorities to clarify the situation, either by adopting a provision on non-punishment of victims of trafficking for their involvement in unlawful activities to the extent that they were compelled to do so or by issuing relevant guidance to public prosecutors.

172. There is still no specific provision on the non-punishment of victims of THB in Portuguese law and no specific guidance on this issue has been provided to public prosecutors. According to the Portuguese authorities, the non-punishment principle is addressed in training sessions for prosecutors. Further, a magistrate of the Investigation and Prosecution Department of Lisbon participated in a workshop on this issue organised by the Council of Europe and the OSCE in October 2014 in Strasbourg. The magistrate prepared a summary of this workshop, which was disseminated through the internal information system to all public prosecutors.

173. As explained in GRETA's first report, in the absence of a specific provision on the non-punishment of victims of THB, general criminal law provisions are applied to exempt victims of THB from criminal responsibility, such as Articles 34 and 35 of the CC ("state of necessity") or to discontinue the prosecution pursuant to Article 281 of the CCP ("closing in the event of discharge without punishment").⁵⁰

174. Prosecutors met by the GRETA delegation provided examples of non-punishment of victims of trafficking through the application of the previously mentioned substantive or procedural criminal norms. In one case, three men suffering from alcohol and drug addiction were forced to commit thefts. Following a psychiatric examination, the charges against them were dropped, based on the general principle of guilt as the basis of the criminal accusation. In this particular case, it was not possible to justify a judgement of guilt given that the three men were totally manipulated by the person exploiting them and their lack of consciousness and free will when committing the thefts. In another case, Nigerian women who had entered Portugal with falsified documents were not prosecuted because it was considered that the circumstances surrounding the use of falsified documents fell under the general provisions of the CC for excluding illegality, given that they had acted in a state of necessity.

175. **GRETA urges the Portuguese authorities to take additional measures to ensure compliance with the principle of non-punishment of victims of THB for their involvement in unlawful activities, to the extent that they were compelled to do so, as contained in Article 26 of the Convention. Such measures should include the adoption of a specific legal provision and/or the development of guidance for police officers and prosecutors on the scope of the non-punishment provision.** Reference is made in this context to the recommendations on non-punishment for legislators and prosecutors contained in the paper issued by the OSCE Office of the Special Representative and Co-ordinator for Combating Trafficking in Human Beings in consultation with the Alliance against Trafficking in Persons Expert Co-ordination Team.⁵¹

⁵⁰ See paragraphs 167-169 of GRETA's first evaluation report on Portugal, document [GRETA\(2012\)17](#).

⁵¹ <http://www.osce.org/cthb/101002>

4. Investigation, prosecution and procedural law

a. Measures related to ensuring effective investigations (Articles 1, 27 and 29)

176. In its first report, GRETA urged the Portuguese authorities to ensure that human trafficking offences are effectively investigated and prosecuted, in particular by identifying gaps in the investigation procedure and the presentation of cases in courts. GRETA also considered that the knowledge and sensitivity of judges, prosecutors, investigators and lawyers regarding THB and victims' rights should be improved and that steps should be taken to effectively apply the legal provisions concerning the confiscation of traffickers' assets.

177. As noted in GRETA's first report, the Public Prosecution Services have a certain degree of specialisation because THB cases are investigated by units responsible for violent and organised crime. As regards the police, the Central Directorate for Investigations of the Immigration and Borders Service (SEF) created an Anti-Human Trafficking Unit in 2013.

178. As described in the first report, special investigation techniques may be used in the investigation of the criminal offence of trafficking in human beings, such as interception of communications and telecommunications, surveillance, search, mobile phone tracking, and infiltration. The dispersal of the legal provisions on special investigation techniques in different pieces of legislation mentioned in the first report has remained unchanged. Law No. 5/2002 laying down measures to combat organised crime was modified in 2013 and is now directly applicable to THB offences. An amendment to Law No. 101/2001 in 2013 made possible the use of cover agents in THB investigations. Law No. 33/2010 regulates the use of technical means of distance control (electronic surveillance). The special investigation techniques most used in THB investigations are wiretapping and surveillance, including photo and video capture.

179. Law No. 109/2009 on Cyber Crime allows for the irreversible removal of data or blocking access to data, including websites. The request has to be made by the law enforcement authorities to the investigating judge. The Portuguese authorities do not know of any cases where this possibility was used in relation to THB.

180. As explained in GRETA's first report, financial investigations are conducted by the Assets Recovery Office under the Judicial Police which was established by Law No. 45/2011. The legal basis for seizure and confiscation of assets resulting from crimes is laid down in Articles 109 and 110 of the CC and Law No. 5/2002 on Measures to Combat Organised Crime. Confiscations may be applied to assets belonging to third parties when the latter have contributed to their use or production, if they have derived benefits from their use or if the assets have been acquired as a result of an offence and the owners are aware of the unlawful origin. Law No. 5/2002 was amended in 2013 and now stipulates that assets derived from THB offences are transferred to CIG to support programmes on prevention of THB and assistance to victims of trafficking (see paragraph 148). This law also establishes the Portuguese regime for extended confiscation. The Portuguese authorities could not provide information on the number of cases in which traffickers' assets were seized or confiscated because there is no data collection concerning seizures or confiscation orders, with the exception of those where the Assets Recovery Office (ARO) intervenes (i.e. when the estimated value of the proceeds from crime is over 100 000 Euros).

181. The Law No. 144/99 on International Judicial Co-operation provides for the setting up of joint investigation teams (JIT). However, Portugal has not participated in any JITs in relation to cases of THB. There have been cases involving simultaneous investigations with other European countries.

182. According to statistics provided by the Directorate General for Justice Policy, 151 investigations into THB cases took place in the period 2012-2015 (22 in 2012, 28 in 2013, 48 in 2014 and 53 in 2015). Three cases were heard at courts of first instance in 2012 and six in 2013. The proceedings concerned 43 accused persons (14 in 2012, 29 in 2013). There were 10 convictions in 2012 and 9 convictions in 2013 that involved deprivation of liberty, of which three in 2012 and five in 2013 were effectively enforced. As concerns the offence of slavery (Article 159 CC), four cases were heard by courts of first instance in 2012 and four in 2013. The proceedings concerned 16 accused persons (six in 2012, 10 in 2013). There were eight convictions in 2013 that involved deprivation of liberty, of which seven were enforced.

183. An empirical study by the University of Minho, entitled "Trafficking in persons and criminal procedure", explored the factors behind the low rate of convictions for the crime of trafficking in persons in Portugal.⁵² In the framework of this study, 481 investigations initiated for the crime of THB were identified by the researchers; 31% of them had progressed to the stage of prosecution for THB or related crimes. Only nine cases (2%) had resulted in convictions for THB. 30 representative cases in different stages of the criminal procedure were studied and interviews were held with 13 magistrates and five criminal police officials. One of the identified problems is the difficulty to distinguish between the crime of THB and other criminal offences. Another difficulty lies in legislative redundancy, in particular in the relation to the crime of slavery and aggravated pimping. When cases were dropped due to lack of evidence, this was often due to delays and omissions at the criminal investigation stage that compromised the timely, co-ordinated and efficient collection of evidence. Another problem was the inability to locate the suspect or the absence of witnesses. The latter was related to a lack of concern about the protection and support of the victim, which often led to a lack of co-operation by the latter.

184. GRETA welcomes the carrying out of this above-mentioned research, which sheds light on certain gaps in the areas of legislation, investigation and prosecution procedures, protection of victims, specialisation and training of relevant officials.

185. **GRETA urges the Portuguese authorities to take measures to ensure that THB cases are investigated proactively, including financial investigations, prosecuted successfully and lead to effective, proportionate and dissuasive sanctions, including by:**

- **issuing sentencing guidelines for THB cases;**
- **encouraging the development of specialisation among prosecutors and judges to deal with THB cases;**
- **addressing gaps in the legislation, the investigation/prosecution procedure, the protection of victims/witnesses and the presentation of cases in court.**

⁵² Available in Portuguese with an Executive Summary in English at:
<http://cid.cig.gov.pt/Nyron/Library/Catalog/winlibsrch.aspx?skey=CDB781C63EB344EAAEA6D9208D065C7&cap=&pesq=10&var8=Publica%u00e7%u00e3o%20CIG&bo=0&var4=Estudos%20de%20G%u00e9nero&doc=96162>

b. Protection of witnesses and victims (Articles 28 and 30)

186. As explained in GRETA's first evaluation report, Law No. 93/99 of 14 July 1999 on the Implementation of Measures for Witness Protection in Criminal Proceedings provides that witnesses of criminal offences, including trafficking in human beings, benefit from general measures of witness protection in criminal proceedings (e.g. anonymity, concealment of their appearance, address and voice, secure accommodation, police protection for members of their families and for their close relatives, the issuing of official documents under various identities, a change in their facial or physical appearance through plastic surgery, new housing in the country or abroad). Further, the Code of Criminal Procedure provides that disclosure of procedural acts is limited in cases of proceedings for offences of trafficking in human beings (Article 87, paragraph 3), and that victims can provide their statements for future use (Article 271) or be heard by video conference in case they cannot attend trial.⁵³

187. The Portuguese authorities have provided examples of protection measures applied to victims of THB. In a recent case tried in Albufeira, a Romanian victim of THB was placed under protection with the collaboration of the SEF in a shelter for women victims of criminal offences during the inquiry stage. Her statement was taken for future use before the examining judge, so that it could be validly used in trial. In another ongoing case (in Santa Maria da Feira) a child victim/witness was placed under protection at a shelter for victims of THB and it was decided to conceal the child's whereabouts. In yet another case, a Nigerian victim/witness was protected pursuant to the Witness Protection Law, having testified under a false name and with her voice and face distorted so as to guarantee her safety.

188. **GRETA invites the Portuguese authorities to continue to make full use of the available measures to protect victims and witnesses of THB, including children, and to prevent intimidation during the investigation and during and after the court proceedings.** In this context, GRETA refers to the Guidelines of the Committee of Ministers of the Council of Europe on child-friendly justice.⁵⁴

c. Jurisdiction (Article 31)

189. Article 5 of the CC determines when Portuguese criminal law applies to an offence committed outside Portugal. Trafficking in human beings is part of a list of offences where Portuguese criminal law applies when the offence is committed abroad, independently of the nationality of the offender or the victim, under the condition that the offender is found in Portugal and cannot be extradited (Article 5, paragraph 1, alinea c, of the CC). Further, Article 5, paragraph 1, alinea e, of the CC establishes that Portuguese jurisdiction applies to crimes committed by Portuguese nationals regardless of the nationality of the victim, or by a non-Portuguese national against a Portuguese national whenever the offender is found in Portugal, the crime is punishable by the law of the country in which it was committed and constitutes a crime for which extradition is permissible but cannot be granted for practical or legal reasons. In addition, Article 5, paragraph 2, of the CC extends the scope of application of Portuguese criminal law to acts which occurred outside Portugal, regardless of the nationality of the offender or the offended in cases where Portugal is bound by the obligation to punish such acts by international treaty or convention. According to the Portuguese authorities, the latter provision applies to cases where a Portuguese national commits a THB offence abroad or a Portuguese national becomes a victim of THB abroad and the offender is not found on Portuguese territory.

⁵³ For further details, see paragraphs 181-184 of GRETA's first report on Portugal.

⁵⁴ [Guidelines of the Committee of Ministers of the Council of Europe on child friendly justice](#) (Adopted by the Committee of Ministers on 17 November 2010 at the 1098th meeting of the Ministers' Deputies)

5. International co-operation and co-operation with civil society

a. International co-operation (Articles 32 and 33)

190. During the reporting period, the Portuguese authorities have engaged in international co-operation in the fight against THB at bilateral, regional and multilateral level, in the framework of UN or EU activities and in international police co-operation.

191. In 2015, under the Portuguese Presidency of the Conference of the Ministries of the Interior of the Western Mediterranean,⁵⁵ a "Lisbon Declaration" was adopted which lays the basis for co-operation in the prevention of, and fight against, organised crime, irregular migration and trafficking in human beings, organs, cells and tissues. Further, in the framework of the third quadripartite conference meeting between Portugal, Spain, France and Morocco, the Ministers of the Interior of these states adopted in April 2015, under the Portuguese Presidency, "Lisbon Conclusions" aiming at reinforcing regional, bilateral and multilateral co-operation, including in the fight against THB.

192. The 13th Conference of the Ministers of Justice of the Community of Portuguese-Speaking Countries, held in Lisbon on 29-30 May 2013, adopted the "Lisbon Action Plan for Establishing Common Measures to Prevent and Combat Trafficking in Human Beings", which aims at promoting an effective co-ordination and standardisation of intervention in this field. Further, in 2015, the Observatory of Trafficking in Human Beings (OTSH) implemented a 35-hour training action on THB in São Tomé e Príncipe for 30 professionals, in partnership with the Prosecutors Office as well as Portuguese partners, and in collaboration with the Executive Secretariat of the Community of Portuguese-Speaking Countries and the Instituto Camões.

193. As concerns bilateral relations, co-operation on THB was discussed between the Ministries of the Interior in the framework of the Portugal-Spain Summit in 2015. Further, in April 2015, Portugal and the Kingdom of Morocco signed a co-operation agreement on matters of internal security which seeks to enhance technical co-operation in key areas, including combating trafficking in human beings. The Portuguese Ministry of the Interior also signed a co-operation protocol with its counterpart in Guinea-Bissau in 2014 on the management of migration and border control which also addresses the issue of human trafficking. Further, in 2014, the Immigration and Border Service (SEF) signed a co-operation protocol with the Migration Service of East-Timor that includes the investigation of people smuggling and THB.

194. In the framework of the European Union's external policy, in 2013 and 2014 SEF supported training and technical assistance in Morocco, Tunisia and Jordan on combating people smuggling and THB. Further, in 2014, SEF participated in the 1st Ministerial Conference of the EU-Horn of Africa Migration Route Initiative ("Khartoum Process") which aims to tackle human trafficking and smuggling of migrants between the Horn of Africa and Europe. Portugal also participates in the Steering Committee of the Rabat Process, a Euro-African Dialogue on Migration and Development. One of its thematic areas is the prevention of and fight against people smuggling and THB, and co-operation in border management control, admission and return are key elements. Portugal also participates in the EU NAVFOR Med operation whose mandate includes to identify, capture and dispose of vessels and enabling assets used by human trafficking networks in the Southern Central Mediterranean.⁵⁶

⁵⁵ Portugal, Spain, France, Italy, Malta, Morocco, Mauritania, Algeria, Tunisia and Libya.

⁵⁶ http://eeas.europa.eu/csdp/missions-and-operations/eunavfor-med/index_en.htm

195. Under the EU-funded Mieux 2 programme through ICMPD, in 2014 SEF provided technical assistance in the area of THB to the Ivory Coast Ministry of Development and Planning, in order to set the basis for the development of a new policy framework on human trafficking. In 2015, the OTSH provided technical assistance to the Ministry of the Interior of Peru in the framework of the national and regional action plans against THB. Further, in October 2015, the OTSH supported UNODC in the implementation of a training action in Mozambique, and in 2014 the OTSH trained professionals of Cape Verde and Brazil (40 persons each) in the framework of the project "United Nations Anti-Human Trafficking Manual for Criminal Justice Practitioners".

196. As mentioned in paragraph 49, the OTSH co-ordinated the project "Towards a Pan-European Monitoring System on Trafficking in Human Beings" which was implemented in 2013-2015 with the financial support of the European Commission. Direct beneficiaries were, besides the Portuguese authorities, the Bulgarian National Commission for Combating Trafficking in Human Beings, the Ministry of the Interior of the Republic of Cyprus and the Federal Ministry of the Interior of Austria.

197. Portuguese law enforcement agencies participate in international police co-operation in the framework of Interpol. The Portuguese authorities co-operate with Liaison Officers from different countries in Portugal and via their own Liaison Officers with the police agencies in other countries. For example, the Judicial Police has Liaison Officers in Spain, whereas Romania has a Liaison Officer in Portugal, which facilitates co-operation with these countries in the investigation of THB offences.

198. In the framework of CEPOL, the Judicial Police is represented in the Working Group on the harmonisation of training on THB for Law Enforcement Agencies of the Member States. In the framework of Europol, SEF was actively involved in the planning and implementation of the Operational Action Plan 2014 on Trafficking in Human Beings EMPACT (European Multi-disciplinary Platform against Criminal Threats). Further, the National Republican Guard participated in 2015 in joint Frontex operations concerning the detection of smuggling and THB in Greece, Bulgaria and Hungary.

199. Among the Centre for Judicial Studies' international activities are the organisation of international seminars, colloquies and conferences. An International Conference on Trafficking in Persons of judges, prosecutors and professionals in the forensic field took place on 25 October 2013. It addressed the victim-centred approach and legal issues concerning THB. In April 2014, the Centre for Judicial Studies organised jointly with the Academy of European Law and with the support of the NGO APAV the Seminar "Countering Trafficking in Human Beings: Towards a More Comprehensive Approach".

200. As concerns co-operation with other State Parties in relation to Article 33, paragraph 2, of the Convention, i.e. in the search for missing people, in particular missing children, the Portuguese authorities have referred to mutual legal assistance provided by Portugal on the basis of bilateral agreements with other States, multilateral instruments⁵⁷ to which Portugal is a party and Law No. 144/99 on International Judicial Co-operation.

201. GRETA commends the efforts in the area of international co-operation made by Portugal and invites the Portuguese authorities to continue these efforts, including by strengthening law enforcement co-operation with countries of origin of victims of THB.

⁵⁷ Such as the 2006 International Convention for the Protection of all Persons from Enforced Disappearance and the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

b. **Co-operation with civil society (Article 35)**

202. There are a number of NGOs active in the area of combating THB in Portugal (see paragraph 24). The setting up of the Network for Support and Protection of Victims of Trafficking (RAPVT) in 2013, which involves some 13 NGOs, is a positive example of enhanced co-ordination and information-sharing (see paragraph 25). The RAPVT was actively involved in revising the National Referral Mechanism. Further, some 19 NGOs and faith-based organisations provide data to the OTSH concerning detected victims of trafficking.

203. The Portuguese authorities have referred to a number of projects in the areas of awareness-raising, education and training in which NGOs are involved (see, for example, paragraphs 41-44, 63-65, 84).

204. **GRETA invites the Portuguese authorities to continue building strategic partnerships with a series of civil society actors. The composition of RAVTP could be expanded by involving trade union representatives.**

IV. Conclusions

205. Since the adoption of GRETA's first report on Portugal in November 2012, progress has been made in a number of areas.

206. The Portuguese authorities have continued to develop the legal framework for combating trafficking in human beings, in the light of GRETA's previous recommendations. The amended definition of trafficking in human beings in the Criminal Code, which explicitly mentions forced begging and the exploitation of criminal activities, corresponds to the need to address new trends in human trafficking. Other legal developments include the adding of a list of aggravating circumstances and explicitly stating the irrelevance of the victim's consent to the intended exploitation.

207. Progress has also been made when it comes to co-ordination of anti-trafficking action. GRETA welcomes the setting up of the Network for Support and Protection of Victims of Trafficking (RAPVT), which brings together relevant governmental and non-governmental organisations, and the enlarged composition of the working group co-ordinating the implementation of the National Action Plan. Another positive development is the setting up of a specialised Anti-Human Trafficking Unit within the Immigration and Border Service.

208. GRETA commends the assessment of the implementation of the second National Action Plan against Trafficking in Human Beings by an independent body and the fact that the results of the assessment were taken into consideration in the development of the current National Action Plan.

209. Efforts have been made to provide training to relevant professionals and to expand the categories of staff targeted. The training provided to border police officers in particular has resulted in increased detection of presumed victims of human trafficking.

210. Further steps have been taken since the first evaluation visit to prevent trafficking for the purpose of labour exploitation by providing training to labour inspectors and through raising awareness among migrants arriving in Portugal and Portuguese citizens seeking employment abroad. GRETA also commends the steps taken to raise general awareness of human trafficking and to assess the impact of campaigns, as well as steps to address the root causes of trafficking by adopting social and economic measures targeting vulnerable groups, such as women, children, young people and migrants.

211. Another important development is the review of the National Referral Mechanism and the setting up of additional multi-disciplinary teams across the country, which are involved in the identification and provision of support to victims of trafficking. The opening of two more shelters for victims of trafficking, one of which is for male victims, has strengthened the capacity to provide specialised assistance.

212. In addition, GRETA commends the efforts made by Portugal in the areas of data collection, research and international co-operation.

213. However, despite the progress achieved, some issues give rise to concern. In this report, GRETA requests the Portuguese authorities to take further action in a number of areas. The position of the recommendations in the text of the report is shown in parentheses.

Issues for immediate action

- **GRETA urges the Portuguese authorities to make efforts to improve the identification of, and assistance to, child victims of trafficking, in particular by:**
 - **ensuring that relevant actors take a proactive approach and increase their outreach work to identify child victims of THB, by paying particular attention to migrant children and unaccompanied foreign minors;**
 - **providing further training and guidance to stakeholders (police, child protection authorities, social workers, NGOs) for the identification of child victims of THB for different forms of exploitation;**
 - **providing adequate support and services which are adapted to the needs of child victims of trafficking, including appropriate accommodation, access to education and vocational training;**
 - **taking steps to address the problem of unaccompanied minors disappearing by providing suitable safe accommodation and adequately trained supervisors or foster parents;**
 - **ensuring the timely appointment of guardians, including by reviewing the legal provisions in this regard;**
 - **ensuring long-term monitoring of the reintegration of child victims of trafficking (paragraph 128).**
- **GRETA urges the Portuguese authorities to take steps to facilitate and guarantee access to compensation to victims of THB, and in particular to:**
 - **enable victims of trafficking to exercise their right to compensation, by making available free legal aid to support victims to claim compensation;**
 - **include victim compensation in training programmes for law enforcement officials, prosecutors and judges;**
 - **make full use of the existing legislation on the freezing and forfeiture of assets to secure compensation to victims of trafficking (paragraph 149).**
- **GRETA urges the Portuguese authorities to establish repatriation programmes that ensure that the return of victims of THB is preferably voluntary, and is conducted with due regard to their rights, safety and dignity, including the right to *non-refoulement* and, in the case of children, by fully respecting the principle of the best interests of the child (paragraph 156).**
- **GRETA urges the Portuguese authorities to take additional measures to ensure compliance with the principle of non-punishment of victims of THB for their involvement in unlawful activities, to the extent that they were compelled to do so, as provided for in Article 26 of the Convention. Such measures should include the adoption of a specific legal provision and/or the development of guidance for police officers and prosecutors on the scope of the non-punishment provision (paragraph 175).**

- **GRETA urges the Portuguese authorities to take measures to ensure that THB cases are investigated proactively, including financial investigations, prosecuted successfully and lead to effective, proportionate and dissuasive sanctions, including by:**
 - **issuing sentencing guidelines for THB cases;**
 - **encouraging the development of specialisation among prosecutors and judges to deal with THB cases;**
 - **addressing gaps in the legislation, the investigation and prosecution procedure, the protection of victims and witnesses and the presentation of cases in court (paragraph 185).**

Further conclusions

- GRETA considers that the Portuguese authorities should examine the possibility of designating as a National Rapporteur a separate organisational entity or another independent mechanism for monitoring the anti-trafficking activities of State institutions (paragraph 22).
- GRETA invites the Portuguese authorities to pursue the efforts taken to provide training concerning THB to a wide range of stakeholders, including health-care professionals. The training should aim, *inter alia*, to increase the number of prosecutions and convictions of traffickers and guarantee effective access to compensation for victims of THB. GRETA also invites the authorities to evaluate the impact and cost effectiveness of the various training programmes (paragraph 45).
- GRETA invites the Portuguese authorities to continue their efforts to develop and maintain a comprehensive and coherent statistical system on THB (paragraph 50).
- GRETA considers that the Portuguese authorities should continue to conduct and fund research on THB-related issues as an evidence base for future policy measures, in particular as regards trafficking in children and trafficking for the purpose of labour exploitation in different sectors, including in professional football (paragraph 58).
- GRETA invites the Portuguese authorities to continue their efforts to raise public awareness of THB for different forms of exploitation, focusing on new trends and needs, and in the light of impact assessment of previous measures (paragraph 66).
- GRETA considers that the Portuguese authorities should take further steps in the area of preventing trafficking for the purpose of labour exploitation, in particular by:
 - continuing to organise activities aimed at raising awareness on the risks of human trafficking for the purpose of labour exploitation, in particular among vulnerable groups;
 - strengthening the monitoring of recruitment and temporary work agencies and reviewing the legislative and regulatory framework with a view to identifying any loopholes that may limit the impact of protection or preventive measures, in particular with regard to domestic workers;
 - expanding the mandate of labour inspectors by adopting provisions that enable them to inspect domestic households if necessary;
 - working closely with the private sector, in line with the Guiding Principles on Business and Human Rights (paragraph 77).

- GRETA considers that the Portuguese authorities should continue their efforts in the area of prevention of child trafficking, by using the results of research on new trends, sensitising and training professionals working with children across the country, raising awareness through school education, and paying special attention to migrant children (paragraph 85).
- GRETA considers that the Portuguese authorities should strengthen the prevention of THB through social, economic and other measures for groups vulnerable to THB, by promoting gender equality, combating gender-based violence, and supporting specific policies for the empowerment of women and children as a means of addressing the root causes of THB (paragraph 90).
- GRETA considers that the Portuguese authorities should make further efforts to sensitise medical professionals involved in organ transplantations and other health-care professionals to THB for the purpose of organ removal (paragraph 94).
- GRETA considers that the Portuguese authorities should increase their efforts to discourage demand for the services of trafficked persons, for all forms of exploitation, in partnership with civil society, trade unions and the private sector (paragraph 99).
- GRETA invites the Portuguese authorities to continue their efforts to improve the capacity of border police officers to detect and identify victims of trafficking (paragraph 102).
- GRETA considers that the Portuguese authorities should continue to strengthen the multi-disciplinary approach to victim identification, by securing the funding and increasing the capacity of the multi-disciplinary teams, and ensure that the formal identification of victims of THB does not depend in practice on their co-operation with law enforcement agencies and on the presence of sufficient grounds to initiate a criminal case (paragraph 113).
- Given the increasing number of presumed and formally identified victims of THB, GRETA considers that the Portuguese authorities should strengthen their efforts to ensure that all victims of trafficking receive adequate assistance and support, according to their needs. This should include measures to:
 - provide a sufficient number of places around the country for all victims of trafficking who need safe accommodation;
 - ensure adequate funding and staff to work with victims of THB and facilitate the reintegration of victims of trafficking into society by providing them with vocational training and facilitating their access to the labour market (paragraph 119).
- GRETA invites the Portuguese authorities to review the age assessment procedures with a view to ensuring that the best interests of the child are effectively protected, taking into account Article 10, paragraph 3, of the Convention, the Convention on the Rights of the Child and General Comment No. 6 of the Committee on the Rights of the Child (paragraph 127).
- GRETA invites the Portuguese authorities to continue taking steps to ensure that all presumed foreign victims of trafficking, including EU/EEA nationals, are offered a recovery and reflection period and all the measures of protection and assistance envisaged in Article 12, paragraphs 1 and 2, of the Convention during this period. Staff performing identification should be issued with clear instructions stressing the need to offer the recovery and reflection period as defined in the Convention, i.e. not making it conditional on the victim's co-operation and offering it to victims before formal statements are made to investigators (paragraph 136).

-
- GRETA considers that the Portuguese authorities should take further steps to ensure that victims of trafficking can fully benefit from the right to obtain a residence permit, particularly when they are unable to co-operate with the authorities (paragraph 141).
 - Further, GRETA invites the Portuguese authorities to collect court statistics on compensation claims brought by victims of trafficking and the amounts granted (paragraph 150).
 - GRETA considers that explicitly including “servitude” and “practices similar to slavery” in the list of forms of exploitation under Article 160 of the CC could contribute to the practical and effective protection against treatment contrary to the Council of Europe Convention on Action against Trafficking in Human Beings (paragraph 164).
 - GRETA invites the Portuguese authorities to carry out a review of the application of the corporate liability provisions with a view to improving their practical application (paragraph 170).
 - GRETA invites the Portuguese authorities to continue to make full use of the available measures to protect victims and witnesses of THB, including children, and to prevent intimidation during the investigation and during and after the court proceedings (paragraph 188).
 - GRETA invites the Portuguese authorities to continue the efforts in the area of international co-operation, including by strengthening law enforcement co-operation with countries of origin of victims of THB (paragraph 201).
 - GRETA invites the Portuguese authorities to continue building strategic partnerships with a series of civil society actors. The composition of RAVTP could be expanded by involving trade union representatives (paragraph 204).

Appendix

List of public bodies, intergovernmental organisations, non-governmental organisations and other civil society actors with which GRETA held consultations

Public bodies

- State Secretariat for Citizenship and Equality
- Citizenship and Gender Equality Commission (CIG)
- National Rapporteur for action against trafficking in human beings
- High Commission for Migration (ACM)
- Ministry of the Interior
 - Immigration and Borders Service (SEF)
 - Republican National Guard
 - Public Security Police
 - Observatory of Trafficking in Human Beings (OTSH)
- Ministry of Justice
 - Criminal Police (PJ)
 - General Prosecutor's Office
 - Superior Council of Magistracy
- Ministry of Solidarity and Social Security
 - Social Security Institute
 - National Commission for the Protection of Children and Young People at Risk
- Ministry of Economic Affairs and Labour
 - Working Conditions Authority
- Ministry of Foreign Affairs
- Ministry of Health

Intergovernmental organisations

- International Organisation for Migration (IOM)
- International Labour Organisation (ILO)

NGOs and other civil society organisations

- Associação para o Planeamento da Família (APF)
- Associação Portuguesa de Apoio à Vítima (APAV)
- Confederation of Portuguese Tourism (CTP)
- Portuguese Commerce and Services Confederation (CCP)
- Confederation of Farmers of Portugal (CAP)

- Confederation of Portuguese Business (CIP)
- General Confederation of the Portuguese Workers (CGTP-IN)
- General Union of Workers (UGT)
- Instituto de Apoio à Criança (IAC)
- Irmãs Adoradoras
- Network of Strategic and International Studies (NSIS)
- O Ninho
- Portuguese Refugee Council (CPR)
- Saúde em Português
- União de Mulheres Alternativa e Resposta (UMAR)

Government's Comments

The following comments do not form part of GRETA's analysis concerning the situation in Portugal

GRETA engaged in a dialogue with the Portuguese authorities on a first draft of the report. A number of the authorities' comments were taken on board and integrated into the report's final version.

The Convention requires that "the report and conclusions of GRETA shall be made public as from their adoption, together with eventual comments by the Party concerned." GRETA transmitted its final report to the Portuguese authorities on 13 January 2017 and invited them to submit any final comments. The comments of the Portuguese authorities, submitted on 9 February 2017, are reproduced hereafter.

General Comments:

We would like to refer that:

Concerning bullet 6, page 6

The Ministry of Justice, in particular through the DGPJ, the PJ and the Commission for the Protection of Victims of Crimes (CPVC), participated actively in the assessment of Portugal, as well as in the preparation of this report, without mentioning them.

Concerning bullet 18, page 8

These statements should be rephrased as the amendments to Article 160 have made this standard an open type covering all forms of exploitation. This question is very important because now the forms of exploitation in that article are indicated as examples. Consequently, the Portuguese law began to punish all forms of exploitation and extended the list of examples (begging, slavery and other criminal activities).

Concerning bullet 47, page 12

It should be pointed out that, although the OTSH is responsible for gathering, analyzing and disseminating information on trafficking in human beings, official statistics on justice are from the responsibility of the Directorate General for Justice Policy, in particular regarding the crime trafficking in persons.

Concerning bullet 121, page 25.

This bullet must be rephrased as follows (some of the words were eliminated and other were included)

121. The reviewed NRM pays particular attention to children. When presumed child victims of trafficking are flagged, are referred to the system for the protection of children's entities (e.g. police authorities, NGO'S or courts) As explained in the first evaluation report, in Portugal, there is a system for the protection of children at risk pursuant to Law 147/99 on the Protection of Children and Young People in Danger, last amended in September 2015, which, however, does not provide for specific measures for child victims of trafficking. There are still no specialized facilities for child victims of THB in Portugal. A victim of trafficking aged under 18 will receive assistance in the same way as any child at risk or in danger. There are three levels of intervention: at the local level (public and private institutions), at the level of the local/municipal committee for the protection of children in danger, or at judicial level, with the public prosecutor's office intervening in more complex cases or in those cases where local committee don't have legitimacy to intervene (e.g. the committee must have the parent's consent or when parents are suspected of sexual abuse). In the event of imminent danger, children may be subject to emergency placement at one of the children' hostels managed by the Portuguese social security system or by private bodies which receive funds from the social security system. Portuguese law stipulates that children at risk or in danger should, as far as possible, be represented by their

parents or other members of their families. When this is not possible, the Prosecutor General's Office acts as their legal representative.

Further comments:

The National Commission for the Protection of Children and Young People at Risk was replaced by the National Commission for the Promotion of the Rights and Protection of Children and Young People – Decree-Law 159/2015, 10th August.

Its mission and duties were enlarged. For example:

Now, the NCPRPCYP must (article 3, number 2):

d) Plan, monitor and evaluate a national strategy for the implementation of the Convention on the Rights of the Child, particularly with a view to collect and process statistical data deemed relevant within the scope of the implementation of the Convention;

e) Draw up and to submit for the Council of Ministers' approval, a multiannual plan for promoting and defending children's rights, whose coordination and implementation are entrusted to the National Commission;

The issues related with THB will be considered in the future multiannual plan for promoting and defending children's rights, whose preparation is carried out at the present moment.

Concerning bullet 125, page 26

It is mentioned that in 2016, 23 Residence Permits were granted to victims of TSH, but the number is incorrect: during 2016, the SEF granted 31 of these AR's. It is true that the data goes up to the time referred in the report – nevertheless the information should in fact be referred to December 2016 (as it is said in the cover: "Adopted on 2 December 2016").

Concerning bullet 159, page 34

These statements should be rephrased as the amendments to Article 160 have made this standard an open type covering all forms of exploitation. This question is very important because now the forms of exploitation in that article are indicated as examples. Consequently, the Portuguese law began to punish all forms of exploitation and extended the list of examples (begging, slavery and other criminal activities).

Concerning bullet 182, page 38.

Where it is read "Directorate General of the Justice Police", should be in fact written "Directorate General for Justice Policy"

Concerning bullet 183, page 38.

Where is refer: *"There were 10 convictions in 2012 and 9 convictions in 2013 that involved deprivation of liberty, of which five in 2012 and three in 2013 were effectively enforced"*,

it should be written *“There were 10 convictions in 2012 and 9 convictions in 2013 that involved deprivation of liberty, of which three in 2012 and five in 2013 were effectively enforced”*

Concerning bullet 198, page 41.

It should be noted that not only the SEF represents Portugal and develops activities under the EMPACT Project, (priority Trafficking in Human Beings), but also the Judicial Police is involved in this project.

Appendix:

The Directorate-General for Justice Policy should be added to the list of entities consulted within the Ministry of Justice, since it has been over the years actively involved in evaluations.

Where is written “Attorney General’s Office” it should be written “General Prosecutor’s Office”.

List of GRETA's proposals
COMMENTS from PORTUGAL

Issues for immediate action:

127. Portugal is preparing the implementation of a shelter for children victims of trafficking. In that shelter, as the others three shelters, children victims of trafficking will have the right to subsistence, access to a suitable and urgent medical treatment, psychological assistance, protection, translation and interpretation services, as well as juridical services with special specifications according to the fact of being minors. All the support and services will be adapted to the needs of the children.

Training is already implemented to all stakeholders using the training toolkit.

Long-term monitoring of the reintegration of child victims of trafficking will be reinforce.

The IAC participated in the project “European Cross-Actors Exchange Platform for Trafficked Children on Methodology Building for Prevention and Sustainable Inclusion - CATCH & SUSTAIN” (financed by the EC). One of the project’s products was the creation and implementation of a Training Toolkit to social workers, introducing preventive methods based on identification and risks assessment, empowerment and life-skills education approach and data gathering through participatory research. This Training Toolkit was implemented.

149. The legislation regarding compensation that may facilitate these procedures is under review and Portugal take note of this recommendation.

156. OIM was integrated recently in RAPVT in order to improve the processes of repatriation, always within the National Referral Mechanism (NRM)

175. Article 280 of the Code of Criminal Procedure may be applied to victims of trafficking, who have taken part in unlawful activities under duress, if the proceeding is for a crime in relation to which the criminal law expressly establishes the possibility of “discontinuance for discharge”. The Portuguese Criminal Code includes several types of crime that expressly comprise the possibility of exemption of punishment, namely in cases of exculpatory necessity set for in Article 35 CC (1- Whoever commits an unlawful act appropriate to avoid a present danger, not differently removable, that threatens life, physical integrity, honour or freedom of the agent or of a third person, acts without guilt when it is not reasonable to demand, according to the circumstances of the case, a different behaviour)

The requirements of discharge are provided by Article 74 (1) CC, and, in these cases, the judge may decide to the “discontinuance for discharge” of the proceeding.

Nevertheless, Portugal will take note of this recommendation.

185. Portugal takes note. It is important to highlight on the issue of justice, that Portugal has translate several Manuals and toolkits from UNODC in relation to this subject in order to improve the skills for proportionate and dissuasive sanctions in judicial procedures:

https://www.unodc.org/documents/human-trafficking/2009_UNODC_TIP_Manual_PT_-_wide_use.pdf

<http://cid.cig.gov.pt/Nyron/Library/Catalog/winlibimg.aspx?skey=8DFF58271D9647498C93EFFF61941B56&doc=95835&img=138817>

[file:///C:/Users/Nuno/Downloads/b823ce4c5d8e4818ad47edf48146e2f1%20\(1\).pdf](file:///C:/Users/Nuno/Downloads/b823ce4c5d8e4818ad47edf48146e2f1%20(1).pdf)

FURTHER CONCLUSIONS:

Considers:

58. Portugal will take note of this recommendation.

77. Each year Portugal launches a national campaign by the 18th of October/European Day against THB aiming at raising awareness on the risk of human trafficking. Along each year several initiatives connected to human trafficking are organized by the regional network to support and protection of victims of trafficking. Also, among the initiatives related to social responsibilities, the III National Plan to Prevent and Combat Trafficking in Human Beings has measures involving the private sector.

85. The national campaign that was launch on 2016 (18th of October/European Day against THB), aimed at raising awareness on the risk child trafficking. So, this issue is a priority in Portugal and as example of that priority is preview an implementation of a shelter specific for children victims of trafficking. Nevertheless, Portugal will take note of this recommendation.

90. From a macro dimension, the execution of the 3rd National Plan ensures its coordination with other national plans. They are:

- *5th National Plan for Gender Equality, Citizenship and Non-discrimination (2014-2017);*
- *5th National Plan to Prevent and Combat Domestic and Gender-based Violence (2014-2017);*
- *Strategic Plan for Migration (2015-2020);*
- *2nd National Action Plan for the Implementation of the United Nations Security Resolution 135 (2000) on Women, Peace and Security (2014-2018).*

So, one of the main priorities is to continue the efforts for strength the prevention of THB trough social, economic and other measures, aiming to promote gender equality and combat gender based violence.

94. Portugal will take note of this recommendation.

99. See answer for bullet 77. Nevertheless, Portugal will take note of this recommendation.

113. Portugal has implemented one more Regional Specialized Teams which is located in Algarve. The already presented 5 APF Regional Specialized Teams have their main role in the moment of signalization/identification, articulating with law forces and providing all the possible arrangements for the victims needs of security, health, accommodation, safety return, integration in a specific THB shelter. This indicates that a Portuguese authority continues to strength the multidisciplinary approach to victim's identification.

Since the Decree-Law n° 368/2007, of 5th November, Portugal has a legal framework that preconizes that a formal identification and a residence permit may be granted to a victim of trafficking not depending on their cooperation with law enforcement.

119. All victims of trafficking receive adequate assistance and support, according to their needs, in compliance with the Directive 2011/36/ EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA. And is according to that legal frame that is preview the implementation of a new shelter for children and the continues focusing on training for staff to work with victims of trafficking

141. Since the Decree-Law n° 368/2007, of 5th November, Portugal has a legal framework that preconizes that a formal identification and a residence permit may be granted to a victim of trafficking not depending on their cooperation with law enforcement. Nevertheless, Portugal takes note of this recommendation.

164. Portugal will take note of this recommendation.

Invites:

45. Portugal will take note of this recommendation.

66. Portugal will take note of this recommendation.

102. Portugal is strongly committed in constantly improving the capacity of border officers to detect and identify victims of trafficking. Portugal will take note of this recommendation.

127. Portugal will take note of this recommendation.

136. All the victims of trafficking, including EU/EEA nationals are offered a recovery and reflection period and all the measures included in the Warsaw Convention on Trafficking in Human Beings as well on the Directive 2011/36/ EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA. We would like to recall that Portugal has as a guideline for the possibility of identification of victims dissociated from their

participation in the investigation and court proceedings. In Portugal all the victims are systematically informed of their rights, namely of the reflection period and all the other social, legal, and medical support they might need at the moment of detection.

149. Portugal will take note of this recommendation.

170. Portugal will take note of this recommendation.

188. Portugal will take note of this recommendation.

204. The scope of the RAPVT is to involve as much as possible all the stakeholders involved directly or indirectly with trafficking in human beings. So, Portugal will take note of this recommendation.