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Third evaluation round

GRETA

Group of Experts
on Action against
Trafficking
in Human Beings

Access to justice
and effective remedies
for victims of trafficking
in human beings

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Executive summary

Since the second round of evaluation of the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings, Portugal has continued to develop the policy and institutional framework relevant to action against trafficking in human beings. The fourth National Action Plan for Preventing and Combating Trafficking in Human Beings (2018-2021) expressly refers to GRETA's previous recommendations. The number of multi-disciplinary teams for the support and protection of victims of trafficking has increased to five, covering the whole territory of the country, except for the islands of Azores and Madeira. In May 2021 a new National Referral Mechanism (NRM) for child victims was presented.

Portugal remains primarily a country of destination for trafficked persons, but it is also a country of origin and of transit. The number of presumed victims of trafficking was 264 in 2016, 175 in 2017, 203 in 2018, 281 in 2019, and 229 in 2020. Labour exploitation is the most common type of exploitation, occurring mostly in the agricultural sector. The number of presumed Portuguese victims has increased over the years and accounted for 23% of all victims in 2016-2018.

The focus of the third evaluation round of the Convention being on trafficking victims' access to justice and effective remedies, the report analyses in detail the implementation of provisions of the Convention establishing substantive and procedural obligations relevant to this topic.

The provision of information to victims of trafficking has been improved through the recent adoption of a document titled "Status of particularly vulnerable victims", which provides comprehensive information on rights and how to access them in practice. GRETA considers that this document should be translated into other languages.

GRETA urges the Portuguese authorities to take further steps to ensure that all victims, including third-country nationals, can effectively access legal assistance and legal aid, by reviewing the eligibility criteria, as well as by ensuring timely decisions on the requests of legal aid by the Social Security Institute. GRETA also considers that further steps should be taken to ensure that victims of THB are assisted by trained lawyers, including by raising awareness among Bar Associations on the need to encourage training and specialisation of lawyers.

Access to compensation from perpetrators is particularly challenging and only in very few cases victims of trafficking have received such compensation. The number of victims who obtained state compensation is very low (six in 2016-2020). GRETA urges the Portuguese authorities to make additional efforts to guarantee effective access to compensation, including by making full use of the existing legislation on the freezing and forfeiture of assets, ensuring legal support for victims in proceedings to enforce compensation claims awarded, reviewing the criteria for obtaining state compensation, and providing relevant training to legal practitioners, prosecutors and judges.

GRETA welcomes the increase in investigations and prosecutions for human trafficking and the adoption of the General Prosecutor's Office Directive No. 1/2021 providing specific guidance for investigating human trafficking cases. However, GRETA is concerned by the fact that the number of prosecutions and convictions for human trafficking remains low compared to the number of identified victims. GRETA considers that the Portuguese authorities should take further steps to ensure that human trafficking cases are investigated proactively, prosecuted, and lead to effective, proportionate and dissuasive sanctions.

There is still no specific provision in Portuguese law on the non-punishment of victims of trafficking for offences they were compelled to commit. Consequently, GRETA once again urges the Portuguese authorities to adopt such a legal provision and/or to develop a guidance for police officers and prosecutors on the non-punishment provision.

GRETA welcomes the Portuguese authorities' efforts to establish institutional and operational co-ordination of action against human trafficking and stresses the importance of having specialised law enforcement units. GRETA invites the authorities to take all necessary measures to ensure that the reorganisation of the Immigration and Borders Service (SEF) and the changes in its competences and responsibilities are not to the detriment of the specialisation on action against trafficking.

The report also examines progress made on the implementation of previous GRETA recommendations on selected topics. While welcoming the steps taken to prevent and combat trafficking for the purpose of labour exploitation, GRETA considers that the authorities should continue to adapt the legislative and operational framework in order to effectively prevent, detect and combat human trafficking in subcontracting companies. The authorities should also continue to increase the staff of the Labour Conditions Authority, strengthen labour inspections, and raise awareness among the general public and at-risk groups across Portugal.

The number of presumed victims of trafficking who are detected and referred to the NRM has increased over the years, including the number of child victims. There are nevertheless concerns that trafficking for sexual exploitation is not sufficiently detected, and a new project aimed at improved protection of victims of trafficking for sexual exploitations has started in 2021. GRETA urges the Portuguese authorities to set up effective procedures on the identification of victims of trafficking among applicants for international protection and their referral to assistance. Systematic training and guidance should be provided to staff working at immigration detention facilities and asylum seekers accommodation centres. GRETA also stresses that the formal identification of victims should not depend in practice on their co-operation with law enforcement agencies and on the outcome of the criminal proceedings.

While welcoming the significant improvements introduced by the new NRM for children, GRETA considers that the Portuguese authorities should take further steps to improve the identification and assistance of child victims, in particular among unaccompanied and separated asylum-seeking children, ensure the sustainability of funding of the shelter for child victims of trafficking, and the timely appointment of legal guardians for child victims.

Portugal has increased its capacity to accommodate victims of trafficking over the years and currently five shelters are operational across the country (two for women, two for men and one for children), all run by NGOs. Furthermore, two centres providing long-term assistance for victims of trafficking have been set up. While welcoming these positive developments, GRETA considers that the Portuguese authorities should take further steps to ensure that assistance is provided to presumed victims of trafficking in detention centres for migrants, and to ensure that adequate state funding is provided to the multi-disciplinary teams and NGOs running shelters.

GRETA is concerned by the limited number of residence permits issued to victims of trafficking and the length of the procedure for obtaining it. GRETA urges the Portuguese authorities to take further steps to ensure that victims of trafficking can benefit in practice and in a timely manner from the right to obtain a residence permit, when their personal situation warrants it or when they are co-operating with the authorities in criminal investigations or proceedings. Child victims should be issued residence permits in accordance with the best interests of the child.

Preamble

The Group of Experts on Action against Trafficking in Human Beings (GRETA) was established 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.

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 of the Convention on which the evaluation procedure is based.

The first round of monitoring of the Convention provided an overview of its implementation by State Parties. The second evaluation round of the Convention examined the impact of legislative, policy and practical measures on the prevention of trafficking in human beings, the protection of the rights of victims of trafficking, and the prosecution of traffickers, paying particular attention to measures taken to address new trends in human trafficking and the vulnerability of children to trafficking.

GRETA has decided that the third evaluation round of the Convention will focus on trafficking victims' access to justice and effective remedies, which is essential for victims' rehabilitation and reinstatement of rights, and reflects a victim-centred and human-rights based approach to the fight against human trafficking. A number of provisions of the Convention establishing substantive and procedural obligations are relevant to this topic, in particular articles 12, 15, 23, 26, 27, 28, 29, 30 and 32.

Access to justice and effective remedies is contingent on the fulfilment of a number of preconditions, including prompt and accurate identification of victims of trafficking, the provision of a recovery and reflection period, the availability of material, psychological, medical and legal assistance, access to translation and interpretation, when appropriate, regularisation of the victim's stay, the right to seek and enjoy asylum, and full respect for the principle of *non-refoulement*. These preconditions, corresponding to various provisions of the Convention, have been examined at length during the first and second evaluation rounds of monitoring of the Convention. Consequently, GRETA has decided to ask each State Party for an update on the implementation of GRETA's previous recommendations on selected topics through a separate country-specific part of the questionnaire. GRETA's findings and analysis of these topics are presented in a separate chapter.

I. Introduction

1. The Council of Europe Convention on Action against Trafficking in Human Beings (“the Convention”) entered into force for Portugal on 1 June 2008. GRETA’s first evaluation report on Portugal was published on 12 February 2013,¹ and the second evaluation report on 17 March 2017.²
2. On the basis of GRETA’s second report, on 10 March 2017, the Committee of the Parties to the Convention adopted a recommendation to the Portuguese authorities,³ requesting them to inform the Committee within a one-year period of measures taken to comply with the recommendation. The report submitted by the Portuguese authorities was considered at the 23rd meeting of the Committee of the Parties (9 November 2018), and was made public.⁴
3. On 1 October 2019, GRETA launched the third 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 1 February 2020 and the authorities’ reply was received on 3 February 2020.
4. In preparation of the present report, GRETA used the reply to the third-round questionnaire by the Portuguese authorities,⁵ the above-mentioned report to the Committee of the Parties, as well as information received from civil society. An evaluation visit to Portugal took place from 14 to 18 June 2021 in order to hold meetings with relevant governmental and non-governmental actors, collect additional information and examine the practical implementation of adopted measures. The visit was carried out by a delegation composed of:
 - Ms Julia Planitzer, Second Vice-President of GRETA;
 - Mr Francesco Curcio, member of GRETA;
 - Ms Petya Nestorova, Executive Secretary of the Convention;
 - Ms Daniela Ranalli, Administrator in the Secretariat of the Convention.
5. During the visit, the GRETA delegation held consultations with Ms Rosa Monteiro, Secretary of State for Citizenship and Gender Equality, Mr Manuel Albano, National Rapporteur for Trafficking in Human Beings, as well as officials from relevant ministries and public bodies, including the Observatory of Trafficking in Human Beings (OTSH), the Immigration and Border Service (SEF), the Criminal Police, the Prosecutor General’s Office, the Superior Council of Magistracy, the Commission for the Protection of Victims of Crime (CPVC), the Labour Conditions Authority (ACT), the National Commission for the Promotion of Rights and Protection of Children and Young People (CNPDPJ), and the High Commission for Migration (ACM). The GRETA delegation also met members of the Portuguese Parliament and Ms Maria Lúcia Amaral, Ombudsperson of Portugal.
6. The GRETA delegation held separate meetings with the Portuguese National Bar, representatives of non-governmental organisations (NGOs), lawyers representing victims of human trafficking, and victims of human trafficking. The GRETA delegation also met officials of the International Organization for Migration (IOM) and the Office of the High Commissioner for Refugees (UNHCR).

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

2 <https://rm.coe.int/greta-2017-4-fqr-prt-en/16806fe673>

3 <https://rm.coe.int/16806fd3f9>

4 <https://rm.coe.int/cp-2018-12-rr2-prt-en/168079256d>

5 <https://rm.coe.int/greta-2018-26-prt-rep/16809e4100>

7. In the course of the visit, the GRETA delegation travelled to Coimbra and Porto and visited three shelters for victims of human trafficking run by NGOs (respectively, for women and their children, for men and for children), as well as two centres for social reintegration of victims of trafficking. Further, GRETA visited a reception centre for unaccompanied children and another one for adult asylum seekers, both located in Lisbon and operated by NGOs.
8. The list of the national authorities, NGOs and other organisations with which the delegation held consultations is set out in Appendix 2 to this report. GRETA is grateful for the information provided by them.
9. GRETA wishes to place on record the co-operation provided by the Portuguese authorities in the preparation of the third 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).
10. The draft version of the present report was approved by GRETA at its 42nd meeting (22-26 November 2021) and was submitted to the Portuguese authorities for comments. The authorities' comments were received on 7 March 2022 and were taken into account by GRETA when adopting the final report at its 43rd meeting (28 March - 1 April 2022). The report covers the situation up to 1 April 2022; developments since that date are not taken into account in the following analysis and conclusions. GRETA's conclusions and proposals for action are summarised in Appendix 1.

II. Overview of the current situation and trends in the area of trafficking in human beings in Portugal

11. Portugal remains primarily a country of destination for trafficked persons, but it is also a country of origin and of transit. According to official data collected by the Observatory of Trafficking in Human Beings (OTSH), the number of presumed victims of THB (i.e. persons detected by law enforcement bodies, NGOs or other bodies on the basis of indicators of trafficking) was 264 (228 in Portugal and 33 abroad) in 2016,⁶ 175 (150 in Portugal and 25 abroad) in 2017,⁷ 203 (168 in Portugal and 35 abroad) in 2018,⁸ 281 (261 in Portugal and 19 abroad) in 2019,⁹ and 229 (219 in Portugal, 9 abroad and one unknown) in 2020.¹⁰ The decrease in the number of presumed victims in 2020 could be attributed to the effects of the COVID-19 pandemic. The number of valid referrals¹¹ was respectively 220 in 2016, 114 in 2017, 141 in 2018, 190 in 2019 and 105 in 2020. The number of children referred as presumed victims of THB was 25 in 2016, 45 in 2017, 28 in 2018, 28 in 2019, and 29 in 2020.

12. As regards the origin of adult victims, the number of presumed Portuguese victims has increased over the years and accounted for 23% of all victims in 2016-2018. In 2019, the majority of the victims were from the Republic of Moldova (56 referrals,¹² or 29,6%), followed by Portugal (36 referrals), Romania (23 referrals), China (18 referrals¹³) and Brazil (9 referrals). In 2020, 17 nationalities of presumed victims were identified. The majority of the victims were from India (38,5%), followed by Portugal (12.5%).

13. Labour exploitation remains the most common type of exploitation, with 152 referrals in 2016,¹⁴ 47 in 2017,¹⁵ 105 in 2018,¹⁶ 120 in 2019¹⁷ and 79 in 2020.¹⁸ The majority of the victims identified in 2019 were men, originating from the Republic of Moldova, India, Pakistan and Portugal. In 2019, some 58% of the referrals for labour exploitation have been identified in the region of Beja, which has a high concentration of agricultural enterprises, and due to the operation "Masline". In 2020, the agricultural sector was the most common area of labour exploitation, followed by catering, football (see paragraph 101) and domestic work. The operation "Lezíria" allowed the identification of 23 presumed victims of labour exploitation in the agricultural sector in the region of Santarém.

14. In 2019, the share of victims of sexual exploitation represented 14% of presumed victims and this proportion further decreased in 2020, representing only 9% of presumed victims.¹⁹ The majority of the victims of sexual exploitation identified in 2020 were Romanian and Portuguese women.

⁶ See Observatory's Annual Report 2016, https://www.otsh.mai.gov.pt/wp-content/uploads/REC-OTSH_Relatorio_Anual_TSH_2016.pdf, p. 18

⁷ See Observatory's Annual Report 2017, https://www.otsh.mai.gov.pt/wp-content/uploads/REC-OTSH_Relatorio_Anual_TSH_2017_2018.pdf, p. 15.

⁸ See Observatory's Annual Report 2018, https://www.otsh.mai.gov.pt/wp-content/uploads/OTSH_Relatorio_Anual_TSH_2018_corrigido_03AGO19.pdf, p. 14.

⁹ See Observatory's Annual Report 2019 https://www.otsh.mai.gov.pt/wp-content/uploads/OTSH-Relatorio_Anual_TSH_2019-versao_final.pdf, p. 18.

¹⁰ See Observatory's Annual Report of 2020, https://www.otsh.mai.gov.pt/wp-content/uploads/Observatorio-Trafico-Seres-Humanos_Relatorio-Anual-Estatistico-Trafico-de-Seres-Humanos-2020.pdf, p. 30.

¹¹ "Valid referrals" are referrals of cases made by law enforcement agencies which are under investigation, pending before a judiciary authority or confirmed by a judicial decision and referrals made by NGOs regardless of the existence of criminal proceedings. See methodological note, Observatory Annual Report 2019, pp. 68-69.

¹² 36 of them were identified in the same investigation.

¹³ 17 of them were identified in the same investigation.

¹⁴ Observatory's Annual Report 2016, p. 31.

¹⁵ Observatory's Annual Report 2017, p. 18.

¹⁶ Observatory's Annual Report 2018, p. 19.

¹⁷ Observatory's Annual Report 2017, p. 24.

¹⁸ Observatory's Annual Report 2020, p. 40.

¹⁹ *Ibidem*.

15. In 2019, a criminal investigation resulted in the identification of 17 presumed victims of THB for the purpose of criminal exploitation and the arrest of three suspects, all of whom were from Taiwan. The victims were lured with a good job offer abroad, with a vague description, and arrived in Portugal on 90-day tourist visas. They were subsequently coerced to contact other Taiwanese citizens, via communication apps, posing as police officers or other public officials, and demanding personal (bank) data and money transfers in order to drop supposed charges against the persons contacted.²⁰

16. Portugal is also a country of transit, with 12 presumed victims detected in 2019 and three in 2020, mostly children coming from African countries (e.g. seven from Angola; three from the Democratic Republic of Congo). In March 2019 and in February 2020, the Immigration and Border Service (SEF) carried out the operation "Bambini" at Lisbon Airport, aimed at checking all children coming from Angola and identifying potential victims of THB.

17. The number of asylum seekers in Portugal has increased in recent years,²¹ but no victims of THB have been identified among asylum seekers (see paragraph 171).

²⁰ See Observatory of Trafficking in Human Beings (OTSH), 2019 Annual Report on Human Trafficking in Portugal, pp 76-77, available at: https://www.otsh.mai.gov.pt/wp-content/uploads/OTSH-Relatorio_Anual_TSH_2019-versao_final.pdf. A similar *modus operandi* has been observed in Croatia and Montenegro, see GRETA's reports concerning these countries.

²¹ There were 1,469 asylum applications in 2016, 1,750 in 2017, 1,285 in 2018, 1,849 in 2019, and 1,002 in 2020.

III. Developments in the legislative, institutional and policy framework for action against human trafficking

18. The institutional framework for action against THB has remained largely the same as described in GRETA's second evaluation 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 Gender Equality, continues to be responsible for co-ordinating the implementation of the activities included in the National Action Plan. The functions of National Rapporteur and National Co-ordinator for Human Trafficking continue to be fulfilled by the same official, who is the Deputy President of the CIG. Further, the Observatory of Trafficking in Human Beings (OTSH), under the Ministry of the Interior, continues to be the central data collection point.

19. Recalling the recommendation made in paragraph 22 of its second report on Portugal, GRETA stresses once again that the key features of National Rapporteurs' mechanisms according to Article 29, paragraph 4, of the Convention should be the ability to critically monitor the efforts and effectiveness of all state institutions, including national co-ordinators, and to that end to maintain a constant exchange with civil society, the research community and other relevant stakeholders. GRETA notes that 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. The Portuguese authorities have affirmed that the current system ensures an independent and critical approach, and have expressed their commitment to further improving it. **Nevertheless, 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.**

20. The Network for Support and Protection of Victims of Trafficking (RAPVT), created in 2013 and bringing together governmental and non-governmental organisations working on issues related to action against trafficking in human beings, is still operational. However, due to the COVID-19 pandemic, no physical meetings took place in 2020/2021 and only one online meeting was organised.

21. The number of multi-disciplinary teams for the support and protection of victims of trafficking has increased to five, covering the whole territory of the country, except for the islands of Azores and Madeira. Each team operates a regional network of partners, including police forces, health services, social and educational services, and NGOs.

22. The Portuguese authorities adopted, on 8 March 2018, the fourth National Action Plan for Preventing and Combating Trafficking in Human Beings (2018-2021).²² Expressly referring to GRETA's recommendations and the European Union (EU) Anti-trafficking Strategy, the Action Plan aims at: 1) increasing knowledge and awareness on THB; 2) improving victims' access to rights; and 3) strengthening action against organised crime. The Action Plan was adopted through a broad consultation between governmental bodies, municipalities, experts and civil society, under the coordination of the CIG. The budget for its implementation is provided by each ministry or agency responsible for implementing the envisaged measures. GRETA was informed that the annual budget allocated by the CIG to anti-trafficking activities, including the multi-disciplinary teams and the running of shelters, is around two million euros. An independent evaluation of the Action Plan's implementation is ongoing. The CIG has received contributions from several stakeholders (including governmental bodies and civil society) and according to the preliminary data, an implementation rate of 76% of the fourth Action Plan is observed. The fifth National Action Plan (2022-2025) is currently being developed and should be published by the end of 2022.

²²

Available at: https://www.otsh.mai.gov.pt/wp-content/uploads/TSH-IV_Plano_Nacional.pdf.

23. The fourth national Action Plan announced the development of a protocol for the definition of procedures for the prevention, identification and protection of child victims of trafficking in human beings (THB). The working group responsible for its development included Citizenship and Gender Equality Commission, the OTSH, the National Republican Guard, the Public Security Police, the Immigration and Border Service, the Criminal Police, the Ministry of Health, the National Commission for the Promotion of the Rights and Protection of Children and Young People, the Prosecutor's Office and the NGO Akto (which runs the specialised shelter for child victims of THB).

24. On 25 May 2021, on the occasion of the international conference "Ten years of the European Anti-Trafficking Directive and the new European Strategy for Combating Trafficking in Human Beings (2021-2025) of the European Union", organised by Portugal in the context of the Portuguese Presidency of the Council of the European Union, a new National Referral Mechanism (NRM) for child victims was presented. It refers to GRETA's recommendation to improve the identification and protection of child victims and establishes procedures the goal of which is to ensure that the best interests of the child are guaranteed throughout the procedure, by strengthening the co-operation and training of all professionals involved in the identification process (see also paragraph 177). The NRM includes identification indicators which take into account new recruitment methods and *modus operandi* of traffickers. It also includes a chapter on monitoring the implementation of the NRM and the setting up of a monitoring group. The OTSH is currently training members of the five multi-disciplinary teams who will provide training to police forces, family courts and prosecutors.

25. Portugal has gradually increased its capacity to accommodate victims of THB over the years. While only one shelter for female victims of THB existed at the time of GRETA first's evaluation in 2012, currently five shelters are operational across the country (two for women, two for men and one for children), all run by NGOs (see paragraphs 182 and 186-189). Furthermore, two centres providing long-term assistance for THB victims and helping them to (re)build autonomous lives have been set up since the second evaluation by GRETA (see paragraphs 190-191).

26. Reference should be made to the measures adopted by the Portuguese authorities in the context of the COVID-19 pandemic. On 27 March 2020, the Portuguese Government issued Order No. 3863-B/2020 on the situation of foreign citizens with pending procedures with the Immigration and Borders Service (SEF). It established, *inter alia*, that persons who applied for residence permits under the Immigration Act or for international protection under the Asylum Act until 18 March 2020 are considered to be regularly present in the country, and are entitled to access the National Healthcare System, social support measures and essential public services, to enter into accommodation rental contracts and employment contracts, and to open bank accounts. This regime was extended until 31 December 2021.²³ Further, the usual deadlines for the asylum procedure were suspended and the validity of visa or documents due to expire before the end of February 2020 was extended to 31 March 2022. This regulation has benefited victims of trafficking who are foreign nationals, as they were provided, under the same conditions as other migrants, with a social security number, allowing them to access the health care system and social services (see paragraph 56). GRETA welcomes the measures taken by the Portuguese authorities to help reducing vulnerabilities in the context of the COVID-19.

27. The SEF has recently been reformed with a view to introducing a separation between administrative competencies relating to foreigners and criminal investigation competencies (see paragraph 173). According to Law 73/2021, which entered into force on 12 November 2021, SEF's criminal investigation competencies have been transferred to the Criminal Police (*Polícia Judiciária*) and administrative competencies are attributed to the new Portuguese Agency for Asylum and Migration (*Agência Portuguesa para as Migrações e Asilo*, APMA).²⁴ At the time of GRETA's visit in June 2021, civil society expressed concerns about the impact of the reform on the investigation of human trafficking cases since the SEF is

<https://www.portugal.gov.pt/download-ficheiros/ficheiro.aspx?v=%3d%3dBAAAAB%2bLCAAAAAAABAAzMTE2BwCZPbkxBAAAAA%3d%3d>

²³ Order No. 12870-C/2021 extended Order No. 3863-B/2020 up to 31 December 2021.

²⁴ [Lei n.º 73/2021 | DRE.](#)

the only law enforcement agency with a specialised Anti-Trafficking Unit (set up in 2013) which carries out investigations and is also active in prevention, awareness raising, training and international co-operation. The reform is expected to be concluded in May 2022 and the authorities assured GRETA that the specialisation and experience of SEF in investigating human trafficking cases will be duly preserved in the implementation process of the reform. **GRETA stresses the importance of specialisation for the effective investigation of human trafficking cases and encourages the authorities to maintain a specialised Anti-Human Trafficking Unit within the police forces after this reform.**

IV. Access to justice and effective remedies for victims of human trafficking

1. Introduction

28. Victims of human trafficking, by virtue of their status as victims of crime and victims of human rights violations, have the right to access to justice and effective remedies for any harm committed against them. These rights must be guaranteed, in a gender- and age-sensitive manner, to all victims of trafficking subject to the jurisdiction of parties to the Convention, irrespective of their immigration status or presence on the national territory, and notwithstanding their capacity or willingness to co-operate in any criminal investigation.

29. The right to effective remedies is a reflection of the human rights-based approach underpinning the Convention. Regardless of whether a State is implicated in the trafficking or directly responsible for the harm, the positive obligations arising from international human rights law require States to facilitate and guarantee effective access to remedies if they have failed to take reasonable steps to prevent human trafficking, protect potential or actual victims of THB, and effectively investigate trafficking offences.²⁵

30. According to the Basic Principles on the Right to an Effective Remedy for Victims of Trafficking in Persons,²⁶ the right to an effective remedy is considered to include restitution,²⁷ compensation,²⁸ rehabilitation,²⁹ satisfaction³⁰ and guarantees of non-repetition.³¹ All victims of trafficking require access to appropriate and effective remedies, starting with access to justice. The provision of effective remedies

²⁵ *Rantsev v. Cyprus and Russia*, application no. 25965/04, judgment of 7 January 2010; *L.E. v. Greece*, application No. 71545/12, judgment of 21 January 2016; *Chowdury and Others v. Greece*, application No. 21884/15, judgment 30 March 2017; *S.M. v. Croatia*, application No. 60561/14, Grand Chamber judgment 25 June 2020.

²⁶ UN General Assembly, Basic principles on the right to an effective remedy for victims of trafficking in persons, Annex to the Report by the Special Rapporteur on trafficking in persons, especially women and children, 28 July 2014, A/69/33797.

²⁷ Restitution includes restoration of liberty, including release of the victim from detention; enjoyment of human rights and family life, including reunification and contact with family members; safe and voluntary repatriation; temporary or permanent residence status, refugee status, complementary/subsidiary protection or third-country resettlement; recognition of the victim's legal identity and citizenship; restoration of the victim's employment; assistance and support to facilitate social integration or reintegration; return of property, such as identity and travel documents and other personal belongings.

²⁸ Compensation may cover damages for physical or mental harm; damages for lost opportunities, including employment, education and social benefits; reimbursement of costs of necessary transportation, child care or temporary housing; material damages and loss of earnings; moral or non-material damages; reimbursement of legal fees and other costs relating to the participation of the victim in the criminal justice process; reimbursement of costs incurred for legal, medical or other assistance.

²⁹ Rehabilitation includes medical and psychological care, legal and social services, shelter, counselling and linguistic support, independently of the capacity or willingness of the victims to co-operate in legal proceedings.

³⁰ Satisfaction includes effective measures aimed at the cessation of continuing violations; verification of the facts and full and public disclosure of the truth to the extent that such disclosure does not cause further harm or threaten the safety, privacy and other interests of the victims or their families; an official declaration or a judicial decision restoring the dignity, reputation and rights of the victim; public apologies; judicial and administrative sanction against the perpetrators.

³¹ Guarantees of non-repetition include ensuring the effective investigation, prosecution and sanctioning of traffickers; all measures necessary to protect victims from re-trafficking; providing or strengthening training of relevant officials; strengthening the independence of the judiciary; modifying practices that cause, sustain or promote tolerance to trafficking, including gender-based discrimination and situations of conflict and post-conflict; effectively addressing the root causes of trafficking; promoting codes of conduct and ethical norms for public and private actors; protecting legal, medical and other professionals and human rights defenders who assist victims.

serves multiple purposes. The remedy of compensation, for instance, for any injury, loss or harm sustained, can provide critical support in victims' recovery and empowerment, help their social inclusion and prevent re-victimisation. The remedy of rehabilitation can similarly help in the victims' recovery, as well as social inclusion. Of relevance in this respect is also the 1985 United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, which outlines the main steps to be taken to improve access to justice, and fair treatment, restitution, compensation and social assistance for victims of crime.³²

31. The Convention provides specifically for the substantive right of victims of trafficking to compensation and legal redress, as well as for a number of procedural rights necessary to ensure access to these entitlements. These include the rights to be identified as a victim of trafficking, to be granted a recovery and reflection period, as well as a residence permit (to enable a victim to remain in the country and seek access to remedies), and to receive counselling, information, legal assistance and free legal aid. Another important procedural right is provided by the non-punishment provision of the Convention (Article 26), according to which victims of human trafficking must not be subjected to penalties for their involvement in unlawful activities that they have been compelled to commit. Further, the Convention requires State Parties to enable the seizure and confiscation of the assets of traffickers, which could be used to fund State compensation schemes for victims.

32. Children need special support to access remedies, the best interests of the child being the primary consideration in all actions concerning trafficked children. The appointment of legal guardians to represent unaccompanied or separated children plays a vital role in enabling child victims of trafficking to access justice and remedies. Further, facilitating family reunification can be an important element of restitution.³³

33. Civil society, including NGOs, trade unions, diaspora organisations and employer organisations, plays a vital role in enabling victims of THB to claim compensation and other remedies.³⁴ In this context, reference should be made to the international projects COMP.ACT - European Action on Compensation for Trafficked Persons³⁵ and Justice at Last - European Action for Compensation of Victims of Crime,³⁶ which aim to enhance access to compensation for trafficked persons.

34. The private sector should also play a role in enabling access to, as well as providing, remedies to trafficked persons, in accordance with the UN 'Protect, Respect and Remedy' Framework and the United Nations Guiding Principles on Business and Human Rights.³⁷ The role of businesses includes steps to ensure that their supply chains are free of trafficked labour, as well as the adoption and implementation of measures to facilitate victims' access to remedies for any harm that occurs. Further, businesses have the potential to help trafficked persons regain economic autonomy.³⁸ States should therefore ensure that business enterprises implicated in human trafficking are held responsible and take steps to reduce barriers that could lead to a denial of access to remedies.

35. Because human trafficking is often a transnational crime, effective international co-operation is essential for fulfilling the obligations with regard to the right to justice and effective remedies. This includes co-operation in tracing and seizing criminal assets, and in returning confiscated proceeds for the purpose of compensation.

³² United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power, Adopted by General Assembly resolution 40/34 of 29 November 1985, available at: https://www.unicef-irc.org/portfolios/documents/472_un-declaration-crime.htm

³³ UNODC, ICAT Issue Paper, Providing Effective Remedies for Victims of Trafficking in Persons, 2016, pp. 7-8. Available at: http://icat.network/sites/default/files/publications/documents/Ebook%20ENG_0.pdf

³⁴ OSCE Compensation for Trafficked and Exploited Persons in the OSCE Region, 2008, pp. 48-53.

³⁵ <http://www.compactproject.org/>

³⁶ <http://lastradainternational.org/about-lsi/projects/justice-at-last>

³⁷ United Nations Guiding Principles on Business and Human Rights, implementing the UN 'Protect, Respect and Remedy' Framework, Doc. A/HRC/17/31 (2011).

³⁸ UNODC, ICAT Issue Paper, Providing Effective Remedies for Victims of Trafficking in Persons, 2016, pp. 8-9.

2. Right to information (Articles 12 and 15)

36. Victims who are no longer under their traffickers' control generally find themselves in a position of great insecurity and vulnerability. Two common features of victims' situation are helplessness and submissiveness to the traffickers, due to fear and lack of information about how to address their situation. Article 12, paragraph 1, sub-paragraph d, of the Convention provides that victims are to be given counselling and information, in particular as regards their legal rights and the services available to them, in a language that they understand. Further, pursuant to Article 15, paragraph 1, of the Convention, Parties must ensure that victims have access, as from their first contact with the competent authorities, to information on relevant judicial and administrative proceedings, in a language they can understand.

37. The information that victims of trafficking must be provided with deals with essential matters, including availability of protection and assistance arrangements, the various options open to the victim, the risks they run, the requirements for legalising their presence in the Party's territory, the various possible forms of legal redress, how the criminal-law system operates (including the consequences of an investigation or trial, the length of a trial, witnesses' duties, the possibilities of obtaining compensation from persons found guilty of offences or from other persons or entities, and the chances of a judgment being fully and effectively enforced). The information and counselling should enable victims to evaluate their situation and make an informed choice from the various possibilities open to them.³⁹

38. Many victims do not speak, or barely speak, the language of the country they have been brought to for exploitation. Ignorance of the language adds to their isolation and is one of the factors preventing them from claiming their rights. The provision of translation and interpretation, where needed, is an essential measure for guaranteeing access to rights, which is a prerequisite for access to justice. GRETA has stressed the need for ensuring the availability, quality and independence of interpreters.⁴⁰

39. In Portugal, victims of THB are provided with information on their rights pursuant to Article 11 of Law 130/2015, which transposed the Directive 2012/29/EU establishing minimum standards on the rights, support, and protection of victims of crime. At their first contact with law enforcement officials or public prosecutors, presumed victims of crimes receive a copy of a document entitled "Victim status" ("*Estatuto de vítima*") which lists their rights, including the right to claim compensation, legal aid, protection measures, resident permit and procedural rights. Subsequently, more detailed information on rights is provided by the multi-disciplinary teams to which presumed victims are referred.

40. During the third GRETA visit to Portugal, civil society representatives observed that the "Victim status" document is often not available in languages other than Portuguese and it is not easy to understand by persons who have no knowledge of the Portuguese legal system.

41. On 1 July 2021, the Presidency of the Council of Ministers published a new document entitled "Status of particularly vulnerable victims" ("*Estatuto de vítima especialmente vulnerável*"), which applied in particular to victims of domestic violence, victims of THB and victims of terrorism.⁴¹ The document is issued once potential THB victims are detected in view of informing them about their rights. The information contained in it is very comprehensive and indicates not only what rights are guaranteed, but also how to access these rights in practice. It includes the rights to legal assistance, compensation, protection measures, translation and interpretation, and information. The authorities informed GRETA that the new regulation entered into force on 1 September 2021 and the document has been translated into English.

³⁹ See Explanatory Report on the Convention, paragraphs 160-162.

⁴⁰ See 8th General Report on GRETA's activities, paragraphs 168-169.

⁴¹ <https://dre.pt/application/conteudo/166270179>

42. As part of the "Infovictims Project", funded by the European Commission and implemented by the Portuguese Association for Victims Support (APAV), a website⁴² with information on victims' rights and on the functioning of criminal proceedings, as well as brochures, leaflets and posters on victims' rights were developed and widely disseminated to police stations, prosecutors' offices and courts. In July 2020, the State Secretary for Citizenship and Gender Equality produced online fact sheets on the existing victim support mechanism.⁴³

43. The multi-disciplinary teams play an essential role for ensuring that victims are effectively informed about their rights, through a communication adapted to their psychological state and their knowledge of the Portuguese legal system. The authorities and civil society representative affirmed that there is a strong co-operation between law enforcement agencies, especially SEF, and the multi-disciplinary teams.

44. Similarly to adult victims, children receive a copy of the document "Victim Status". The new document entitled "Status of particularly vulnerable victims" contains a specific section dedicated to children, with information about age assessment procedures, access to legal representation, right to education and limitations to the repatriation of unaccompanied children.⁴⁴ The new NRM for children (see paragraph 178) stresses the importance of appointing a legal guardian to ensure that the best interests of the child are respected in criminal and civil proceedings involving the child. GRETA notes that the appointment of legal guardians to represent unaccompanied or separated children plays a vital role in making child victims aware of their rights and enabling them to access to justice.

45. The victims' right to information is also guaranteed in the context of criminal proceedings. Thus, pursuant to Article 75 of the Code of Criminal Procedure (CCP), victims must be informed of the possibility to claim compensation. In this context, Article 8 of Law No. 55/2020, defining the objectives, priorities and guidelines of criminal policy for 2020-2022, establishes that "The protection of victims and the compensation of the damages suffered by them as a result of the crime are a priority and victims should be provided with adequate information and support to exercise and enjoy their rights".⁴⁵

46. Pursuant to Article 92 of the CCP, free interpretation and translation should be granted in the criminal proceedings. Under Article 112 of Law 23/2007, the provision of an interpreter is mandatory during investigations and, when the assistance of an interpreter is mandatory and no one is appointed, the procedural act in question is legally void.

47. Translation and interpretation services are available throughout the identification procedure where necessary (face-to-face or by telephone) and documents are given, where possible, in the victims' spoken language. NGOs and reception centres usually have interpreters and ensure the translation of their internal regulation.

48. During the evaluation visit, GRETA was informed that there is no register of certified interpreters and translators in Portugal, and it is not clear whether an assessment of their competencies or of their criminal records certificates is carried out. The High Commission for Migration provides interpretation and translation services in a wide range of languages through four National Support Centres for the Integration of Migrants (CNAIM), located in Lisbon, Porto, Faro and Beja. Since 2006, a hotline for interpretation offers interpretation services for free (in 69 languages and dialects), from 9 a.m. to 7 p.m. on Monday to Friday. Considering the complexity of the issues and the trauma suffered by victims of THB, GRETA notes that it is essential that interpreters are sensitised to the issue of THB. Furthermore, considering the risk of retaliation for THB victims, having a list of certified interpreters is essential for ensuring not only the quality of the service but also the safety of victims.

⁴² [Infovictims \(infovictims.pt\)](https://www.infovictims.pt)

⁴³ See [online information cards](#).

⁴⁴ Ibid., p. 128 (31).

⁴⁵ [Lei 55/2020, 2020-08-27 - DRE](#)

49. GRETA welcomes the efforts of the authorities and civil society to provide victims of THB with information materials that are as accessible and comprehensive as possible. GRETA stresses that victims should be provided with information on rights in a manner which takes into account their cognitive skills and psychological state. For example, victims who are traumatised may have difficulties in adequately understanding and analysing the information before taking a decision. This is why it is important that information on rights be provided repeatedly by different professionals, including psychologists, social workers and lawyers, while ensuring that the provision of information is structured and consistent throughout the victims' pathway of engaging with different agencies and organisations.

50. GRETA welcomes the steps taken to provide victims of human trafficking with information and the publication of the new "Status of particularly vulnerable victims", and invites the Portuguese authorities to continue strengthening the systematic provision of information to presumed victims of trafficking (adults and children) regarding their rights, the services available and how to access them, in a language that the victim understands.

51. Further, GRETA considers that the Portuguese authorities should set up a list of certified interpreters and translators and ensure the availability in practice and at all stages of the identification and criminal proceedings of qualified interpreters/translators, including by providing adequate funding to ensure adequate quality of interpreting and translation services, as well as translating the "Status of particularly vulnerable victims" into other languages.

3. Legal assistance and free legal aid (Article 15)

52. Article 15(2) of the Convention obliges Parties to provide in their internal law for the right of victims of trafficking to legal assistance and free legal aid. As court and administrative procedure is often very complex, legal assistance is necessary for victims to be able to claim their rights. It is for each Party to decide the requirements for obtaining such free legal aid. Parties must have regard not only to Article 15(2) of the Convention, but also to Article 6 of the ECHR. Even though Article 6(3)(c) of the ECHR provides for free assistance from an officially appointed lawyer only in criminal proceedings, European Court of Human Rights case-law⁴⁶ also recognises, in certain circumstances, the right to free legal assistance in a civil matter on the basis of Article 6(1) of the ECHR. Thus, even in the absence of legislation granting free legal assistance in a civil matter, it is for the courts to assess whether, in the interest of justice, an applicant who is without financial means should be granted legal assistance if unable to afford a lawyer.

53. GRETA's reports highlight the value of a lawyer being appointed as soon as there are reasonable grounds for believing that a person is a victim of trafficking, before the person makes an official statement and/or decides whether to co-operate with the authorities. Early access to legal assistance is also important to enable victims to take civil actions for compensation and redress.⁴⁷

54. Access to justice and legal assistance is recognised as a fundamental right under Article 20 of the Portuguese Constitution. Law 34/2004 provides for two different rights: legal assistance (technical extrajudicial support) and legal aid (legal representation in court and exemption from judicial fees). The scope of these rights is very large and includes every litigation concerning rights or legitimate interests. Lack of financial means is a precondition for obtaining legal aid, with an assessment being made by the Social Security Institute. Victims of domestic violence benefit from a presumption of lack of financial means, making it easier to demonstrate their eligibility for obtaining legal aid (Article 8c of Law 34/2004). However, this provision does not apply to victims of THB.

⁴⁶ *Airey v. Ireland* judgment, 9 October 1979.

⁴⁷ See 8th General report on GRETA's activities, paragraph 167.

55. Article 7 of Law 34/2004 establishes that non-EU citizens can have access to legal aid and legal assistance if one of the following two conditions is met: they are legally resident in Portugal or there is mutual recognition of this right between Portugal and their country of origin. This provision makes access to legal aid particularly challenging for victims of THB who are undocumented migrants. The authorities highlighted that this provision does not concern victims of THB as they can obtain a residence permit under Article 109 of the Law 23/2007. However, GRETA was informed that the waiting periods for obtaining a residence permit could take up to a year or even longer, and victims miss important judicial deadlines while waiting for a residence permit.

56. Prosecutors and judges may apply the Social Security Institute legal aid on behalf of the victim, when he/she is considered particularly vulnerable. However, the request cannot be processed by the Social Security Institute if the victim does not have a social security number, which is the case of undocumented migrants. GRETA notes that regardless of the provisions of Portuguese law, the lack of a residence permit and a social security number prevents foreign victims of THB from submitting an application to the Social Security Institute that can be processed and therefore from obtaining legal aid.

57. Even though Article 25 of Law 34/2004 provides a deadline of 30 days for the Social Security Institute to decide and establishes that after the expiry of this deadline without a decision "the request for legal protection is considered tacitly accepted and granted", this provision does not seem to be applied in practice. Civil society actors mentioned several cases where the appointment of a lawyer took several months and one case where the procedure took two years. Several interlocutors met by GRETA noted that victims of THB often remain stuck in a slow and inefficient bureaucratic system.

58. Beyond the above-mentioned difficulties for victims who are undocumented migrants, access to legal aid is also problematic because of the absence of specialised lawyers. During the evaluation visit, GRETA met the National Bar Association, which explained that, once the request for legal aid is accepted by the Social Security Institute, the Bar Association appoints a lawyer at random from a list of legal aid providers which categorises lawyers according to their general field of specialisation (civil law or criminal law). There is no mandatory training for lawyers. GRETA is concerned by the lack of specialisation and training of lawyers, however welcomes that the Human Rights Commission of the National Bar Association organised on 31 July 2021 a conference specifically dedicated to action against trafficking in human beings.⁴⁸

59. NGOs indicated the lack of specialisation of lawyers as a serious problem, noting that *ex officio* lawyers are often unaware of the peculiarities of THB cases. Lawyers are appointed by the local Bar Association at the place where the criminal offence was committed whereas victims may be placed in shelters far away from the place where the exploitation occurred. Travel costs paired with the complexity of the cases, on many occasions, oblige lawyers to give up the case.

60. Legal representation in court is not mandatory for victims and witnesses. However, victims can be assisted by a lawyer or by a person of trust while speaking with police forces, prosecutors and judges. The right to be assisted by a lawyer is also recognised when victims give a statement for future use at the pre-trial stage ("*memoria futura*", Article 271 of the CCP) in case they cannot attend trial. It is up to the judge to decide whether the victim should be assisted by a lawyer and NGOs confirmed that this is usually granted. NGO representatives informed GRETA that, even though the assistance of NGOs is generally ensured, on some occasions the court may not allow representatives of the multi-disciplinary teams to accompany victims in court. According to the recent General Prosecutor's Office Directive No. 1/2021 providing guidelines for the implementation of the Law of Criminal Policy in 2020-2022,⁴⁹ prosecutors should pay special attention to the right of victims to be assisted by a lawyer or a person of trust when they give a statement for future use.⁵⁰ This right is also mentioned in the "Status of particularly vulnerable victims" (see paragraph 41). Victims of trafficking also benefit from cost exemption under the Regulation on Procedural Costs.

61. The appointment of a lawyer for unaccompanied children in criminal proceedings is mandatory. Further, General Prosecutor's Office Directive No. 1/2021 states that the presence of a lawyer is mandatory in case of conflict of interests between the child and his/her legal guardian.

62. NGOs running shelters and the multi-disciplinary teams usually provide legal assistance to victims of THB, including in the administrative procedure for obtaining legal aid before the Social Security Institute. Some NGOs have networks of *pro bono* lawyers. However, this is considered as a last resort to overcome the failures of the legal aid system. The NGO Saude em Português has engaged a lawyer to provide legal assistance to victims as well as legal representation in different proceedings. NGOs do not receive additional state funding that is specifically dedicated to providing legal assistance to victims of THB.

63. Free legal aid is not available for claiming state compensation before the Commission for the Protection of Victims of Violent Crimes (CPVC). Even if in most cases the request for state compensation is made by prosecutors on behalf of the victim, the criteria for being awarded state compensation (e.g. the exploitation having resulted in a temporary or permanent incapacity to work lasting at least 30 days) might make it difficult for victims to provide the necessary evidence without the assistance of a lawyer (see paragraph 86).

64. GRETA notes the advantages of victims receiving legal assistance as soon as there are reasonable grounds for believing that a person is a victim of trafficking, before that person makes an official statement and/or decides whether to co-operate with the authorities. Early access to legal assistance is also important to enable victims to take civil actions for compensation and redress. In Portugal, the appointment of *ex officio* lawyers to victims of trafficking is subject to strict eligibility criteria and very few victims are in practice represented by lawyers, unless an NGO has a lawyer or manages to attract *pro bono* lawyers. GRETA is concerned by the difficulties of undocumented migrants to access legal aid, considering the restrictions under Article 7 of the Law 34/2004 and the waiting times for obtaining a resident permit. GRETA stresses that Article 15, paragraph 2, of the Convention, recognising the right to legal aid for THB victims, should be read in conjunction with Article 3 of the Convention, prohibiting discrimination in Parties' implementation of the Convention and in particular in enjoyment of measures to protect and promote victims' rights.

⁴⁹ Law 55/2020 of 27 August 2020, defining objectives, priorities and guidelines of criminal policy for the biennium 2020/2022.

⁵⁰ <https://www.ministeriopublico.pt/sites/default/files/documentos/pdf/diretiva-1-2021.pdf>, p.143, paragraph 2.

65. **Noting that access to legal assistance and free legal aid is essential for victims' access to justice, GRETA urges the Portuguese authorities to take further steps to ensure that:**

- **all victims, including third-country nationals, can effectively access legal assistance and legal aid, by reviewing the eligibility criteria, as well as by ensuring that the Social Security Institute decides on requests for legal aid in a timely manner and that residence permit requests are processed in a timely manner;**
- **legal assistance is provided as soon as there are reasonable grounds for believing that a person is a victim of human trafficking and legal aid is provided to victims of trafficking before they make an official statement.**

66. **While welcoming Directive No. 1/2021 of the General Prosecutor's Office, reinforcing the right of the victim to be assisted by lawyers or NGOs at the pre-trial stages, GRETA considers that the Portuguese authorities should:**

- **take further steps to ensure that victims of THB are assisted by trained lawyers when they give a statement for future use;**
- **raise awareness among Bar Associations on the need to encourage training and specialisation of lawyers, and ensure that trafficking victims are assisted by specialised lawyers;**
- **review the system of remuneration of ex-officio lawyers in order to ensure that appointed lawyers are sufficiently remunerated and reimbursed for travel costs;**
- **collect statistics on victims' access to legal aid.**

4. Psychological assistance (Article 12)

67. Human trafficking and exploitation may have serious psychological and physical consequences for the victims, including mental health problems and loss of self-esteem. Psychological assistance is needed to help victims of trafficking overcome the trauma they have been through, and to achieve a sustained recovery and social inclusion. Some victims require long-term therapeutic intervention due to the violence they have suffered. Every victim of trafficking should have a clinical assessment tailored to include an evaluation of their particular readiness for therapy, conducted by an experienced clinician.⁵¹ In the case of trafficked children, specialist child psychologists should be employed.

68. The previously mentioned document "Status of particularly vulnerable victims" refers to the right to free access to the National Healthcare System and the right to obtain psychological assistance. Victims of THB are provided with a range of support services by the five regional multi-disciplinary teams, including psychological assistance. The support starts during the recovery and reflection period and continues beyond it, for as long as it is needed. Psychological support is provided to victims at the five existing shelters and the two long-term assistance centres. The shelters visited by GRETA, run by the NGOs APF, Akto and Saude em Português, employed psychologists who provided long-term support after the victims had left the shelters. Victims met by the GRETA delegation during the visit confirmed they had received or were still receiving psychological assistance and some of them recognised the crucial importance of this support in their recovery.

⁵¹ See OSCE, *Trafficking in Human Beings Amounting to Torture and Other Forms of Ill-Treatment* (2013), Vienna, p.115.

69. Pursuant to Article 112 of Law 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 non-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 Portuguese victims and there is no distinction between EU and non-EU nationals on the range of assistance measures to which they are entitled. However, civil society representatives noted that undocumented migrants experienced difficulties in accessing health care due to the long waiting times for residence permits and the absence of a social security number.

70. **GRETA welcomes the psychological support provided by the regional multi-disciplinary teams and NGOs running shelters, and invites the Portuguese authorities to continue ensuring adequate funding for the provision of psychological support.**

5. Access to work, vocational training and education (Article 12)

71. Article 12, paragraph 4, of the Convention requires State Parties to enable victims of trafficking who are lawfully present in the country to have access to the labour market, vocational training and education. An important element of the recovery and successful social inclusion of trafficked persons is their economic empowerment, which can be achieved through job placement, micro-businesses and social enterprises.⁵² GRETA has stressed the need to develop public-private partnerships with a view to creating appropriate work opportunities for victims of trafficking.⁵³

72. In 2019, the State Secretary for Citizenship and Gender Equality allocated 44,665 euros to support the social inclusion of victims of THB. NGOs running shelters and the multi-disciplinary teams support victims in accessing the labour market, attending school, vocational training and other educational services. The GRETA delegation visited the two centres providing long-term assistance which have been set up recently and spoke to victims who were employed or were attending professional training. **GRETA welcomes the creation of the two centres providing long-term support to victims of THB and invites the Portuguese authorities to further support such initiatives, including by providing adequate funding.**

73. According to data provided by the OTSH, 23 victims of THB were provided with education/training in 2019 and 7 in 2020 and 17 received support in accessing the labour market or obtained an employment in 2019 and 8 in 2020.⁵⁴

74. Under Article 88, paragraph 1, of Law 23/2007, as amended by Law 29/2012, in order to obtain a residence permit for employment, applicants must have a regular employment contract before they can enter the national territory. Article 88, paragraph 2, of Law 23/2007 establishes that a residence permit can be "exceptionally" delivered to persons who have a "work relationship" certified by trade unions or a general labour inspector office.

75. During the evaluation visit, the authorities indicated that the above-mentioned provision makes it possible to regularise migrants who do not have a residence permit but have an employment contract. In practice, the employers are not prosecuted, and the workers may obtain a residence permit. Victims of trafficking who are undocumented migrants can apply for regularisation of their situation under Article 88, paragraph 2, of Law 23/2007; however, GRETA was informed that this possibility was not used in practice as victims of trafficking applied for residence permits under Article 109 of Law 23/2007 (which is specifically for victims of trafficking in human beings), and had to wait to obtain the residence permit before being allowed to work (see paragraph 198).

⁵² Rebecca Surtees, NEXUS Institute, *Re/integration of trafficked persons: supporting economic empowerment*, Issue paper No. 4, King Baudouin Foundation (2012).

⁵³ See 8th General report on GRETA's activities, paragraph 183.

⁵⁴ Observatory Report 2019, p. 52 and Observatory Report 2020, p. 59.

76. **GRETA invites the Portuguese authorities to further support victims of THB in their economic and social inclusion, by providing adequate funding to NGOs and the multi-disciplinary teams and by raising awareness amongst different employers, social enterprises and public-private partnerships, including through state supported employment programmes, with a view to creating appropriate work opportunities for victims of trafficking.**

6. Compensation (Article 15)

77. Article 15(3) of the Convention establishes a right of victims to compensation. The compensation is pecuniary and covers both material injury (such as the cost of medical treatment) and non-material damage (the suffering experienced). However, even though it is the trafficker who is liable to compensate the victim, in practice there is rarely full compensation either because the trafficker has not been found, has disappeared or has declared him/herself bankrupt. Article 15(4) therefore requires that Parties take steps to guarantee compensation of victims. The means of guaranteeing compensation are left to the Parties, which are responsible for establishing the legal basis of compensation, the administrative framework and the operational arrangements for compensation schemes. In this connection, Article 15(4) suggests setting up a compensation fund or introducing measures or programmes for social assistance to, and social integration of, victims that could be funded by assets of criminal origin. Of relevance in this respect is the European Convention on the Compensation of Victims of Violent Crimes, pursuant to which, when compensation is not fully available from other sources, the State shall contribute to compensate those who have sustained serious bodily injury or impairment of health directly attributable to an intentional crime of violence, as well as the dependents of persons who have died as a result of such crime, even if the offender cannot be prosecuted or punished.

78. Compensation fulfils multiple purposes: payment of reparation for injury, loss or harm caused by the offender, access to justice, empowerment of victims, as well as being seen as a form of punishment and deterrence of traffickers. As such, compensation plays a crucial role in the fight against human trafficking, not only as an instrument of restorative justice, but also by way of prevention and recognition by States of their failure to meet their human rights obligations.

79. Victims often leave the country where they were exploited at the end of the criminal proceedings. This creates obstacles to making civil claims for compensation, which in addition are associated with a number of other barriers, such as high costs, unavailability of free legal aid and victim-support services, as well as the claimant bearing the burden of proof of the amount of the damage. State parties should therefore consider adopting a procedure through which victims are entitled to obtain a decision on compensation by the offender as part of the criminal trial, within a reasonable time.

80. As described in GRETA's second evaluation report, there are two main routes by which victims of THB can claim compensation in Portugal.⁵⁵ The first is through criminal proceedings where the victim can bring a civil claim against the offender, pursuant to Article 71 of the CCP. If the offence is proven, the court can order the offender to pay damages to the victim. Under Article 82 of the CCP, in case of vulnerable victims – including victims of THB – the court is obliged to consider compensation even when the victim did not claim compensation him or herself. Prosecutors and judges met by GRETA provided examples where prosecutors had requested compensation pursuant to Article 82 of the CCP. Claims for compensation may include the unpaid salaries, as material damage suffered because of the exploitation.

81. Furthermore, under Article 130, paragraph 2, of the CC the court may award to the victim, at his/her request and up to the limit of the damage suffered, the assets confiscated in favour of the State under Articles 109 to 111 of the CC. The authorities were not able to provide data on the application of this provision to trafficking cases. One of the measures of the 4th National Plan to prevent and combat trafficking in human beings is to promote the effectiveness of this legal provision.

⁵⁵ See GRETA's second evaluation report on Portugal, paragraphs 142-143. In addition, victims can also claim compensation in a separate civil procedure, under Article 72 of the Code of Criminal Procedure.

82. GRETA was informed that access to compensation from perpetrators is particularly challenging and only in very few cases victims of THB have received such compensation. NGOs mentioned a couple of cases where compensation was awarded, but not paid by the perpetrators. Difficulties in obtaining compensation from perpetrators arise from the lack of training and understanding of the complexity of the THB phenomenon by judges. As an example, GRETA was informed of a recent case involving more than 50 persons trafficked for labour exploitation in the South of Portugal, where despite a successful investigation and confiscation of assets, the judge qualified the crime as illegal immigration, and the victims lost their right to obtain compensation (see paragraph 100).

83. The second route to obtain compensation is from the State pursuant to Law 104/2009 on the Compensation to Victims of Violent Crime and Domestic Violence. Victims of violent crimes (including victims of THB) can claim state compensation before the Commission for the Protection of Victims of Violent Crimes (CPVC) if the offender does not have financial means to compensate the victim. To obtain compensation, three cumulative conditions must be met: i) the victim must have a temporary or permanent work incapacity of at least 30 days; ii) the event must have resulted in a considerable deterioration in the victim's standard of living and quality of life; iii) there must be no reasonable possibility of obtaining compensation from the offender or from any other source. The first condition does not apply to child victims and victims of sexual offences.

84. GRETA was informed by civil society that the first requirement, "temporary or permanent incapacity to work for at least 30 days", makes access to state compensation very challenging for victims of trafficking as they usually do not possess a medical certificate attesting to a physical or psychological injury resulting in an incapacity to work. The CPVC informed GRETA that this criterion is currently being interpreted in practice that it is considered as fulfilled if the victim has been exploited for at least 30 days. GRETA was informed that the CPVC had asked the Ministry of Justice to amend this criterion and a proposal to this end would be included in the next legislative agenda.

85. Law 104/2009 establishes a maximum amount of 34,000 EUR that victims can receive as compensation from the State. The claim for compensation should be submitted through an online form, available on the CPVC website. The request can be made by the victims or on their behalf by NGOs, prosecutors or judges. GRETA was informed that in most cases, the request is made by a prosecutor. As noted in paragraph 64, there is no provision entitling victims to free legal aid to claim state compensation.

86. State compensation is usually paid after the final court judgement and the amount of the damage is calculated on its basis. State compensation can also be claimed before the final judgement or regardless of the existence of criminal proceedings, when for example there is no defendant. When victims, or NGOs on their behalf, ask for the compensation be paid before the final judgment, they must demonstrate, beyond the eligibility criteria, the "serious lack of financial means of the victim". When state compensation is allowed before the final judgement or regardless of the existence of a criminal trial, the damage is calculated by the CPVC, by using similar criteria used by the judge for allowing just and fair compensation. GRETA notes that meeting the required standard of proof, especially for psychological injuries without the assistance of a lawyer may be very challenging for victims of THB.

87. Civil society pointed out the excessive length of the procedure for obtaining State compensation, sometimes taking more than three years. The CPVC explained that the length of the procedure depends on when the request is made; it can take two to three months if the request is made after the final judgment or longer if the request is made before the judgment and the CPVC is obliged to assess the lack of financial means of the defendant and the amount of the damage.

88. The number of victims of THB who have obtained state compensation remains very low: two in 2016, one in 2017, two in 2018, one in 2019 and none in 2020. According to the authorities, victims of trafficking, especially those who are undocumented migrants, are reluctant to claim compensation. Moreover, when victims are not accommodated in shelters or are not represented by lawyers, they lose contact with the authorities during the criminal proceedings and do not pursue claims for compensation. The authorities stressed their commitment to work closely with law enforcement and civil society to build a trust-based relationship with victims of trafficking in order to facilitate their access to justice.

89. Reiterating the concerns raised in its second evaluation report on the low number of victims of human trafficking who have received compensation from the perpetrators or the state, **GRETA urges the Portuguese authorities to step up their efforts to guarantee effective access to compensation for victims of trafficking, in line with Article 15 of the Convention, including by:**

- **enabling victims of trafficking to effectively exercise their right to obtain compensation from perpetrators, by making full use of the legislation and, in particular, Article 82 of the CPC and Article 130, paragraph 2, of the CC, as well as the legislation on the freezing and forfeiture of assets and international co-operation and by ensuring legal support for victims in proceedings to enforce compensation claims awarded;**
- **enabling victims of trafficking to effectively exercise their right to obtain state compensation, by reviewing the criteria for obtaining it (in particular, the criterion of temporary or permanent work incapacity of at least 30 days), ensuring victims' access to legal aid when submitting applications to the Commission for the Protection of Victims of Violent Crimes (CPVC) and reducing the length of the procedure;**
- **improving training programmes on THB and on victims' access to compensation for legal practitioners, prosecutors and the judiciary, and encouraging them to use all the possibilities the law offers to uphold compensation claims by victims of THB.**

90. **Recalling the recommendation made in the second evaluation report,⁵⁶ GRETA also considers that the Portuguese authorities should collect court statistics on compensation claims brought by victims of trafficking and the amounts granted.**

7. Investigations, prosecutions, sanctions and measures (Articles 22, 23 and 27)

91. One of the purposes of the Convention is to ensure the effective investigation and prosecution of THB. Article 27(1) of the Convention establishes that the investigation or prosecution of THB offences must not depend on victims' reports. The aim is to avoid traffickers' subjecting victims to pressure and threats in attempts to deter them from complaining to the authorities. Pursuant to Article 27(2), if the competent authority with which the complaint has been lodged decides that it does not itself have jurisdiction in the matter, then it must forward the complaint without delay to the competent authority of the Party in whose territory the offence was committed. Further, under Article 27(3), each Party shall ensure to non-governmental organisations and other associations which aim at fighting trafficking in human beings or protecting human rights the possibility to assist and/or support the victim with his or her consent during criminal proceedings concerning the offence of trafficking in human beings.

⁵⁶ See GRETA's second evaluation report on Portugal, paragraph 150.

92. Article 23 requires Parties to match their action to the seriousness of the offences and lay down criminal penalties which are “effective, proportionate and dissuasive”. Further, paragraph 3 of Article 23 places a general obligation on Parties to adopt appropriate legal instruments enabling them to confiscate or otherwise deprive offenders (e.g. by so-called “civil” confiscation) of the instrumentalities and proceeds of human trafficking criminal offences. As trafficking in human beings is nearly always engaged in for financial profit, measures depriving offenders of assets linked to or resulting from the offence are an effective anti-crime weapon. The confiscation of criminal assets is crucial for reinforcing the effect of the penalty, as well as ensuring the payment of compensation to the victim. It requires as a prerequisite to detect, identify and seize the illegal assets at the time of the criminal investigations and to have adequate procedures to do so. The identified, seized and confiscated illegal profits of trafficking should be used to compensate victims of trafficking, directly or through a victim compensation fund.

93. Further, Article 22 of the Convention requires Parties to ensure that legal persons can be held liable for human trafficking offences committed for their benefit by any natural person, acting either individually or as part of an organ of the legal person who has a leading position within the legal person. Liability under this article may be criminal, civil or administrative.

94. In Portugal, trafficking in human beings is a crime prosecuted *ex officio*. Plea bargaining does not exist in the Portuguese legal system and therefore cannot be applied to THB cases.

95. Law 96/2017 defining the objectives, priorities and guidelines of criminal policy for the biennium 2017-2019 gave priority to the investigation and prosecution of human trafficking cases. The fight against trafficking remains a priority of the Portuguese criminal policy for the biennium 2020-2022 according to the new Law 55/2020. The General Prosecutor’s Office Directive No. 1/2021 providing guidelines for the implementation of the Law of Criminal Policy in 2020-2022 provides specific guidance for investigating THB cases, as follows: (i) the Central Department of Investigation and Prosecution (DCIAP) should be promptly informed for ensuring co-ordination; (ii) special attention should be paid to cases involving underage victims; (iii) statements for future reference⁵⁷ should always be taken as a preventive measure in order to avoid revictimisation and safeguard witness statements; (iv) cases of irregular immigration should be specifically analysed in order to ascertain whether there are indicators of trafficking in human beings; (v) the prosecutors of the districts should ensure and promote co-ordination with social services, migrants’ support institutions and the Labour Conditions Authority (ACT) with a view to effectively detecting and investigating these crimes; (vi) when children and young people are involved, family and minors’ courts should be immediately informed, for ensuring co-ordination and the adoption of adequate measures. The General Prosecutor’s Office is responsible for ensuring that the Directive is implemented by prosecutors across the country. **GRETA welcomes the adoption of these comprehensive guidelines and encourages the Portuguese authorities to make full use of them.**

96. The relevant legal frame concerning special investigation techniques and financial investigations was already described in GRETA’s second report and remains unchanged.⁵⁸ Special investigation techniques, such as interception of communications and telecommunications, surveillance, search, mobile phone tracking and infiltration, may be used in the investigation of human trafficking cases. Financial investigations are conducted by the Assets Recovery Office of the Criminal Police, established by Law 45/2011 and may also 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. Under Law 45/2011 (Article 17), the proceeds of crimes confiscated in THB cases are allocated to the coordinating entity of the National Plan against THB.

⁵⁷ As described in GRETA’s previous reports, the statement for future reference (Article 271 of the CCP), consists in obtaining witness statements at the pre-trial stage, which can be used in the trial, subject to the safeguards which apply during the trial.

⁵⁸ See GRETA’s second evaluation report on Portugal, paragraphs 178-180.

97. The number of investigations in THB cases has grown over the years (40 in 2017, 57 in 2018, 81 in 2019), but there was a decrease in 2020 (41 investigations).⁵⁹ Three of the investigations in 2019 involved companies. The number of prosecutions (10 in 2017, 52 in 2018, 26 in 2019 and 31 in 2020) and convictions (7 in 2017, 25 in 2018, 15 in 2019 and 13 in 2020) has also increased. Of the seven persons convicted in 2017, four served effective imprisonment sentences, and of the 25 persons convicted in 2018, 20 served effective imprisonment sentences and four suspended imprisonment sentences with disciplinary rules. Data on the number of judgements resulting in the confiscation of assets are not available.

98. While welcoming the increase in investigations, prosecutions and convictions for human trafficking, GRETA is concerned by the fact that the number of prosecutions and convictions for human trafficking remains low compared to the number of identified victims.

99. Prosecutors and law enforcement officials met by GRETA referred to challenges in the investigation of THB cases in which companies are involved, as setting up and closing a company can be very easy in Portugal. This is particularly problematic in the agricultural sector, since workers are usually recruited by an intermediary company, which exploits them and eventually closes the business and disappears. Reference can be made to a recent case of labour exploitation of some 50 seasonal migrant workers from the Republic of Moldova in the agricultural sector in Alentejo, in the South of Portugal, which was prosecuted as THB. A large number of presumed victims gave statements for future reference, a financial investigation was carried out, and criminal assets amounting to some 7.5 million EUR were reportedly identified. The prosecutor requested compensation on behalf of the victims pursuant to Article 82 of the CCP. However, the first instance court qualified the offence as “facilitation of illegal migration”, dropping the charge of trafficking in human beings, and consequently the victims were not awarded any compensation. Following the judgment, the confiscation was also withdrawn. The prosecutor appealed the court’s decision and the Court of Appeal of Évora overturned it. This case illustrates the difficulties of adjudicating cases of THB for labour exploitation in practice when no violence is used by the perpetrators, but there is nevertheless an abuse of the victims’ vulnerability.⁶⁰ GRETA recalls that the concept of “abuse of a position of vulnerability”, which is part of the international definition of THB, should be understood as the abuse of any situation in which the person involved has no real and acceptable alternative to submitting to the abuse. This concept should be properly understood and applied in practice; investigators, prosecutors and judges should be trained to recognise all means apart from use of force and recognise also subtle forms of coercion which characterise THB offences.

100. Furthermore, reference can be made to the operation “Fairplay”, in which the SEF arrested in March 2019 two South American citizens, football managers, who were charged with trafficking in human beings, facilitation of illegal immigration and document fraud. The football club Nazaré and its President were also charged. The operation led to the identification of about 20 young footballers from South American countries, some of whom underage, who had been promised a resident permit in Portugal and the signing of professional contracts with football clubs, in exchange for large sums of money for which, in many cases, their families had to incur debts. Once in Portugal, the footballers were assigned to the clubs in question, were initially accommodated in flats, but were progressively abandoned and ended up living in inhuman and degrading conditions, without any remuneration from the football clubs. The alleged perpetrators have been charged and criminal proceedings are still pending. Only one of the identified victims decided to stay in Portugal and obtained a resident permit under Article 109 of Law 23/2007. Two other investigations concerning young footballers who are potential victims of trafficking are currently ongoing in Funchal. In one of the investigations, the potential victims were young Colombian footballers who decided to return to their country; in the other case, the victims co-operated in the criminal proceedings and applied for a resident permit.

⁵⁹ Observatory’s Report 2020, p. 64. It should be noted that these figures correspond to crimes of THB registered by law enforcement authorities in each year. This corresponds to the number of criminal incidents detected or brought to the attention of the authorities in a given period, which may not correspond to the number of investigations initiated or in progress in the same period. The latter may include, for example, the reopening of cases corresponding to crimes recorded in previous periods, as well as situations brought directly to the attention of the Public Prosecutor’s Office.

⁶⁰ See European Court of Human Rights, *Chowdury and Others v. Greece*, application No. 21884/15, 30 March 2017.

101. Reference has already been made in paragraph 15 to the case of trafficking of persons from Taiwan for the purpose of criminal exploitation. Five persons were arrested in this case and pre-trial preventive measures were applied against one of them. The presumed victims gave statements for future reference, refused the assistance offered to them and were voluntarily repatriated to Taiwan.

102. Concerning convictions, reference can be made to the judgment of the Court of appeal of Coimbra (15 January 2020), in which a man was sentenced to nine years' imprisonment for trafficking a girl for sexual exploitation and domestic work. The court found that the defendant had abused of the victim's position of vulnerability, defining it as "a situation in which there is no real and acceptable alternative other than be subjected to what is proposed".⁶¹ On 24 February 2020, the Court of Appeal of Coimbra also sentenced six defendants to between five and seven-years' imprisonment for trafficking of Portuguese citizens for the purpose of labour exploitation in Spain.⁶²

103. GRETA was informed that prosecutors and judges are obliged to update their qualifications through continuous training provided by the Centre of Legal Studies (*Centro de Estudos Jurídicos*). At least one training course is dedicated to trafficking in human beings every year.

104. GRETA stresses that failure to convict traffickers and the absence of effective, proportionate and dissuasive sanctions undermines efforts to combat THB and to guarantee victims' access to justice. Continuous and in-depth training is essential for ensuring successful prosecution and adjudication, as well as adequate funding to the criminal justice system. **GRETA considers that the Portuguese authorities should take further steps to ensure that THB cases are investigated proactively, prosecuted, and lead to effective, proportionate and dissuasive sanctions. In this context, the authorities should:**

- **step up their efforts to ensure that trafficking offences are classified as such every time the circumstances of a case allow this, including cases characterised by the absence of physical violence and the abuse of a position of vulnerability of the victim;**
- **make full use of the tools of criminal procedural law ensuring an effective investigation, while respecting the rights and safety needs of the victim. In this context, the General Prosecutor's Office Directive No. 1/2021 should be fully implemented;**
- **strengthen the conduct of financial investigations in THB cases with a view to securing confiscations and compensation for victims;**
- **take adequate measures to ensure that the reform of the SEF does not result in the loss of knowledge and expertise in the fight against trafficking in human beings;**
- **continue providing training to law enforcement officers, prosecutors and judges on the specificities of THB, the severe impact of exploitation on the victims and the need to respect their human rights. The interpretation of the concept of "abuse of position of vulnerability" should be included in training programmes to ensure its application in practice;**
- **ensure that the criminal justice system is supported by adequate funding.**

⁶¹ See [Acórdão do Tribunal da Relação de Coimbra \(dgsi.pt\)](#).

⁶² See [Acórdão do Tribunal da Relação de Coimbra \(dgsi.pt\)](#).

8. Non-punishment provision (Article 26)

105. Pursuant to Article 26 of the Convention, Parties must provide for the possibility of not imposing penalties upon victims of THB for their involvement in unlawful activities, to the extent that they have been compelled to do so. As previously stressed by GRETA, the criminalisation of victims of THB not only contravenes the state's obligation to provide services and assistance to victims, but also discourages victims from coming forward and co-operating with law enforcement agencies, thereby also interfering with the state's obligation to investigate and prosecute those responsible for THB.⁶³ Furthermore, GRETA has noted that the absence of a specific provision on the non-punishment of victims of trafficking entails a risk of differential treatment, depending on the prosecutor in charge of the case.

106. There is still no specific provision in Portuguese law on the non-punishment of victims of trafficking for offences they were compelled to commit and the legislation on this aspect remains unchanged.⁶⁴

107. The Portuguese authorities have reiterated their position that, even in the absence of an express non-punishment provision, the application of the general principles of criminal law,⁶⁵ excluding criminal responsibility in case of crimes committed under compulsion, ensures compliance with the non-punishment principle, as set out in Article 26 of the Convention.

108. GRETA notes that the "Status of particularly vulnerable victims" refers to the right not to be prosecuted for crimes victims were compelled to commit.

109. According to the authorities, no victims of trafficking had been prosecuted for offences they were compelled to commit, and, in cases concerning undocumented migrants, no prosecution is undertaken by the SEF if the persons are identified as THB victims. However, GRETA was informed by NGOs of several cases in which victims of THB were reportedly punished for criminal or administrative offences they were compelled to commit. In one such case, an Angolan woman, who was reportedly forced into domestic servitude in a private household, was convicted for fraud. In another case, Portuguese citizens were apparently forced to commit unlawful activities in Spain, with bank accounts and companies being opened in their names and used to commit tax fraud. One victim ended up with significant tax and social security debts and had to pay severe administrative fines. The investigation for trafficking was dismissed and the person was not able to justify his situation.

110. GRETA recalls that, under Article 26 of the Convention, victims shall not be held liable for unlawful acts (criminal or administrative) committed by them, to the extent that such involvement is a direct consequence of their situation as trafficked persons. The rationale behind the non-punishment provision is based on the obligation of protecting and assisting victims of trafficking, which in turn requires the granting of access to support services, justice and compensation. Prosecuting and/or punishing victims identifies them as the wrongdoers, and not as victims of exploitation, leading to secondary victimisation, discourages victims from coming forward and co-operating with the police, thereby also interfering with the State's obligation to investigate and prosecute those responsible for trafficking in human beings.

111. Recalling the recommendations made in its second report, GRETA once again 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 non-punishment provision.

⁶³ See 2nd General Report on GRETA's activities, paragraph 58.

⁶⁴ See GRETA's second evaluation report on Portugal, paragraph 173.

⁶⁵ Namely, Articles 34 and 35 of the CC ("state of necessity"), Article 74(1) of the CC and Article 281 of the CCP which provides, under specific circumstances and only in case of offences subject to a maximum penalty of five years, the suspension of the trial.

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

112. Under Article 28 of the Convention, Parties must take the necessary measures to provide effective and appropriate protection from potential retaliation or intimidation to victims and witnesses of human trafficking, as well as to members of civil society organisations supporting victims during criminal proceedings and, where appropriate, to victims' family members. Intimidation of victims and witnesses is nearly always aimed at suppressing evidence against defendants. Effective protection can be of various types (physical protection, relocation, identity change...) and depends on the assessment of the risks that victims and witnesses run. In addition, Article 28(3) provides that a child victim shall be afforded special protection measures, taking into account the best interests of the child. Regarding the period during which the protection measures are to be provided, the Convention aims in a non-exhaustive manner at the period of investigation and of the proceedings or the period following them. The period in which protection measures have to be provided depends on the threats to the persons concerned. Moreover, because trafficking in human beings is often international and some countries are small, Article 28(5) encourages Parties to enter into agreements or arrangements with other countries so as to implement Article 28.

113. Further, Article 30 of the Convention requires Parties to adapt their judicial procedure so as to protect victims' privacy and ensure their safety, including special protection measures for child victims. While the measures provided for in Article 28 address extra-judicial protection, the measures referred to in Article 30 are concerned with the procedural measures to be introduced. The following means can be used, in accordance with the European Convention on Human Rights and the case-law of the European Court of Human Rights, to achieve the objectives of Article 30: non-public hearings, audio-visual technology, recordings of testimony, and anonymous testimony.

114. As explained in GRETA's previous evaluation reports,⁶⁶ Law 93/99 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 protection measures (e.g. protection of identity, secure accommodation, protection of their families). Further, pursuant to Article 67-A, paragraph 3, of the CCP, victims of THB are considered particularly vulnerable and are entitled to the following special measures: protection of their identity; possibility to make statements for future reference, to be heard by video conference and by a police officer of the same sex as the victim. They also benefit from a special regime for obtaining a resident permit, which will be maintained as long as there is a risk that the victim, his or her relatives or persons who have a close relation with him or her are the object of threats or offences (Decree Law 368/2007). Information on these rights is provided in detail in the new document "Status of particularly vulnerable victims" (see paragraph 41).

115. In view of improving the protection of victims and witnesses and ensuring that the above-mentioned provisions are fully applied, the General Prosecutor's Office published, on 14 January 2021, the General Prosecutor's Office Directive No. 1/2021, which has a specific chapter on victims' protection and support, stating that: (i) victim's examination should be conducted at an early stage in an informal and confidential environment and any repetition should be avoided; (ii) victims can be heard by video conference; (iii) contacts between the victims and members of their families, on the one hand, and perpetrators, on the other hand, in court buildings should be avoided; (iv) psychological support should be available to victims; (v) interim measures to avoid the continuation of criminal activity should be applied; (vi) victims should be referred to shelters; (vii) an individual risk assessment and safety plan should be adopted; (viii) full use of the statements for future reference should be ensured; (ix) an amount should be paid, as a compensation, before the judgment when particular protection needs require it and especially in case of child victims; (x) the publicity of hearings may be limited and the removal of the accused from the room during the provision of statements by victims should be ensured.

⁶⁶ See GRETA's second evaluation report paragraph 186 and GRETA's first evaluation report, paragraphs 181-184.

116. As already mentioned, the Directive emphasises the importance of the statement for future reference, as a tool for protecting victims and avoiding re-victimisation, and encourages a close coordination between prosecutors and family courts where children are involved, in order to ensure that the best interests of the child are respected, and the most appropriate measures are adopted. It also specifies that, when particularly vulnerable victims are involved, the interrogation of the defendant and the victims should be carried out by a prosecutor.

117. Furthermore, when presumed victims of trafficking are referred to the NRM, an individual risk assessment is made by the multidisciplinary teams, in co-operation with law enforcement agencies, and victims are accommodated in shelters where they benefit from a range of protection measures. The multidisciplinary teams regularly inform victims about the perpetrators' arrest, release and sentence. Staff working at the shelters communicate directly with the courts. However, when victims are not accommodated in shelters, there are reportedly delays and problems in the communication about the progress of the case. Further, civil society representatives noted that despite the existence of a comprehensive legislative framework on protection of witnesses and victims, protection measures are applied too late, especially in the islands (Azores and Madeira) and in rural areas.

118. There is no data about the number of cases in which witness protection measures were applied to victims of THB, and therefore it is difficult to assess their application.

119. As regards child victims, please refer to the separate section below (paragraphs 136-139).

120. GRETA welcomes the Portuguese authorities' efforts to improve the protection measures and invites them to ensure that the available protection measures are fully and effectively applied to victims and witnesses of THB, with a view to preventing intimidation during the investigation, as well as during and after the court proceedings.

10. Specialised authorities and co-ordinating bodies (Article 29)

121. Under Article 29(1) of the Convention, Parties have to adopt the necessary measures to promote specialisation of persons or entities in anti-human-trafficking action and victim protection. Each country must have anti-trafficking specialists in sufficient numbers and endowed with appropriate resources. The staff of specialised authorities and co-ordinating bodies should, as far as possible, be composed of both women and men. To combat trafficking effectively and protect its victims, it is essential that proper training is provided to relevant officials.

122. Portugal has a well-established institutional framework on action against trafficking, ensuring coordination and continuity of the response to this phenomenon. However, the co-ordinated institutional framework does not correspond to the operational framework, which has a less developed level of specialisation. The Public Prosecution Service has developed a certain degree of specialisation because THB cases are investigated by units responsible for violent and organised crime. As regards law enforcement agencies, a specialised Anti-Human Trafficking Unit was created in 2013 within the Central Directorate for Investigations of the Immigration and Borders Service (SEF), with seven staff members. However, as mentioned previously, the SEF has recently been reformed and there are concerns about the impact of this reform on the capacity to investigate THB cases, the risk of losing SEF's competencies and specialisation in action against trafficking in human beings (see paragraph 27).

123. The Criminal Police (PJ) assists the judicial authorities and the Public Prosecution Service in conducting investigations and to carry out preventive, detection and investigative activities which fall within its ambit, particularly with regard to organised crime. The PJ has a specialised unit on cybercrime which organised a Cybercrime Action Day in 2021. No THB case has been investigated in the context of action against cybercrime.

124. Several actions are envisaged in the National Action Plan for strengthening co-operation among different actors involved in the fight against trafficking, including: a protocol to improve co-operation in criminal investigation; a protocol in case of child victims who go missing; and a protocol for improving coordination between police forces and the Labour Conditions Authority (ACT) in preventing trafficking for the purpose of labour exploitation.⁶⁷ GRETA was informed that these protocols had not yet been developed and would be included in the next National Action Plan 2022-2025.

125. GRETA welcomes the Portuguese authorities' efforts to establish institutional and operational coordination on action against trafficking and stresses the importance of having specialised law enforcement units for effective action against trafficking in human and co-ordination and information exchange at operational level. GRETA invites the authorities to take all necessary measures to ensure that the reorganisation of the SEF and the changes in its competences and responsibilities are not to the detriment of the specialisation on action against trafficking.

11. International co-operation (Article 32)

126. Article 32 of the Convention requires parties to co-operate to the widest extent possible to prevent and combat THB, to protect and to provide assistance to victims, and to investigate and prosecute cases of THB. International co-operation between State Parties to the Convention is also essential for enabling access to effective remedies for victims of trafficking. Parties must co-operate with one another "to the widest extent possible". This principle requires them to provide extensive co-operation to one another and to minimise impediments to the smooth and rapid flow of information and evidence internationally. As regards international co-operation in criminal matters for the purposes of investigations or proceedings, the provisions of the Convention neither cancel nor replace the provisions of relevant international or regional instruments⁶⁸ on mutual legal assistance and extradition, reciprocal arrangements between Parties to such instruments and relevant provisions of domestic law concerning international co-operation.

127. The Portuguese authorities informed GRETA that within the framework of co-operation with Europol and other European countries, the SEF together with other agencies, namely ACT, maintained, in 2020, the Portuguese participation within the strategic objectives defined in the area of combating THB with EMPACT THB of Europol.

128. A number of investigations have been carried out using international co-operation mechanisms, including Interpol, Europol and parallel investigations. By way of example, reference can be made to the following investigations:

- Operation "CORDA BAMBA" (case file 1496/15.1T9SNT), concerning THB of Romanian citizens for labour and sexual exploitation, started in March 2015. The international co-operation enabled the arrest and conviction of 17 persons in April 2018, 13 of them were sentenced to prison terms ranging from six to 16 years, and four had their sentences suspended.
- Operation "KATMANDU" (case file 576/14.5GEALR) concerning THB for labour exploitation, started in November 2014 and ended in July 2016. The perpetrators recruited workers from Nepal, India, Pakistan, Bangladesh, Thailand and the Philippines to work in agriculture. In March 2018, 22 persons were convicted and sentenced to prison terms ranging from five to 10 years, and 13 legal persons were sentenced to dissolution.

⁶⁷ See National Action Plan, specific objective 3.2.

⁶⁸ For example, the European Convention on Extradition, the European Convention on Mutual Assistance in Criminal Matters and its protocols, Council Framework Decision of 13 June 2002 on the European arrest warrant and the surrender procedures between Member states, the Convention on Laundering, Search, Seizure and Confiscation of the Proceeds from Crime.

- Operation "LUSAR" (case file 685/13.8JACBR), which concerned Portuguese workers trafficked to work in agriculture in Spain, started in December 2013 and ended in April 2019. Five Portuguese perpetrators were arrested and sentenced to prison terms ranging from six to seven years, and one had his sentence suspended.

129. Portugal participated in three Joint Action Days (JAD) which were held in 2020, one targeting labour exploitation, another targeting labour exploitation in the agricultural sector and the third targeting child trafficking (with the involvement of Frontex).⁶⁹

130. According to the authorities, two mutual legal assistance requests have been made to Brazil in THB cases. Further, seven European Investigation Orders have been issued to other countries and six have been received. One of them was addressed to the Romanian authorities in the context of an investigation concerning THB for the purpose of sexual exploitation and aimed at locating victims and obtaining additional information on the suspects and their assets. The authorities mentioned two examples of international co-operation (with Angola and with France) in child trafficking cases. In the first case, a European Investigation Order was issued to France to obtain evidence of the suspect's involvement in a criminal organisation. In the second case, an urgent request was sent to Angola to obtain images of surveillance cameras in Luanda's Airport.

131. In view of improving co-operation with Spain, a training programme for law enforcement officers on THB indicators has been organised at the border between Portugal and Spain.

132. GRETA welcomes the Portuguese authorities' engagement in international co-operation in the investigation and prosecution of THB, and invites them to continue their efforts, in particular in the prevention of THB, financial investigations and evaluating the risks of the return of victims of trafficking.

12. Cross-cutting issues

- a. gender-sensitive criminal, civil, labour and administrative proceedings

133. As noted in CEDAW General recommendation No. 33 on women's access to justice, discrimination against women, based on gender stereotypes, stigma, harmful and patriarchal cultural norms and gender-based violence, which affects women in particular, has an adverse impact on the ability of women to gain access to justice on an equal basis with men.⁷⁰ The Council of Europe Gender Equality Strategy 2018-2023 notes that while accessing justice might be difficult for everyone, it is even more so for women, due to gender inequality in society and in the justice system, and therefore one of the objectives of the Strategy is to ensure the equal access of women to justice.⁷¹ GRETA notes that in the case of trafficking in human beings, gender stereotypes, prejudices, cultural barriers, fear and shame impact women's access to justice, and these barriers may persist during investigations and trials. This is particularly true for some groups of women, such as victims of gender-based violence, migrant, refugee and asylum-seeking women, ethnic minority women and women with disabilities. On the socio-economic level the obstacles include lack of awareness of one's legal rights and legal procedures or of how to access legal aid, which can stem from gender differences in educational levels, and access to information. A further obstacle may be the lack of financial resources, including the means to pay for legal representation, legal fees, judicial taxes, transportation to courts or childcare.⁷² Such obstacles, and remedies to them, are listed in a Council of

⁶⁹ Observatory's Annual Report 2020, p. 27.

⁷⁰ CEDAW General recommendation No. 33 on women's access to justice, paragraph 8, CEDAW/C/GC/33 of 3 August 2015: https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CEDAW/C/GC/33&Lang=en

⁷¹ Council of Europe Gender Equality Strategy 2018-2023, pp.24-26, <https://rm.coe.int/prems-093618-gbr-gender-equality-strategy-2023-web-a5/16808b47e1>

⁷² Council of Europe training manual for judges and prosecutors on ensuring women's access to justice, page 13 available at <https://rm.coe.int/training-manual-women-access-to-justice/16808d78c5>

Europe training manual for judges and prosecutors on ensuring women's access to justice, as well as in the publication "Women's Access to Justice: Guide for Legal Professionals".⁷³

134. Portugal has a National Strategy for Equality and Non-discrimination ("Portugal+Iguar") for the period 2018-2021, supported by three Action Plans, covering issues related to gender equality, preventing and combating all forms of violence against women, gender violence and domestic violence, and combating discrimination on the grounds of sexual orientation, identity and expression of gender, and sexual characteristics.⁷⁴

135. Portugal has undertaken several actions for eliminating and preventing direct and indirect discrimination based on gender and ensure gender equality. By way of example, the authorities referred to the project "Improving prevention, assistance, protection and reintegration of victims of sexual exploitation" (see paragraph 169), a research project on the gender dimension of THB in Portugal and the presentation of the document "Trafficked women" to all secondary schools in Portugal on the occasion of the European Anti-trafficking Day.

b. child-sensitive procedures for obtaining access to justice and remedies

136. In Portugal, children are always considered as particularly vulnerable victims, pursuant to Article 26 of Law 93/99. In addition to the previously mentioned victim protection measures (see paragraphs 114-116), children have the right to have a legal guardian and in case of doubt about their age, it is assumed, for the purpose of applying the special protective measures, that the victim is a child.

137. GRETA was informed that in some courts and police facilities, there are dedicated spaces for interviewing children in a child-friendly setting. Interviews are generally conducted by judges, prosecutors or police officers who can ask for the assistance of a psychologist or therapist. However, civil society highlighted that child-friendly spaces are still limited and not regularly used.

138. GRETA was informed that the National Commission for the Promotion of the Right and the Protection of Children and Young People (CNPDPJC) has had, since September 2021, a "Child Safeguarding Policy" aimed at ensuring the protection of children's rights in all of its own activities or those that are organised in co-operation with partner organisations and applicable to these contexts. The Policy may act as an inspiration for other entities to set up a child safeguarding policy of their own. In addition to the institutional version of the "Child Safeguarding Policy" a child-friendly version was also produced, in consultation with the National Council of Children and Young People. Both documents exist in Portuguese and English⁷⁵.

139. GRETA welcomes the setting up of child-friendly interview rooms in courts and police facilities and invites the Portuguese authorities to further develop the availability of such rooms and to ensure that all child victims of THB are interviewed in them.

c. role of businesses

140. One of the main goals of the National Action Plan to Prevent and Combat Trafficking in Human Beings (2018-2021) is to "strengthen the fight against organised crime networks, including by dismantling the business model and the trafficking chain."⁷⁶ The Action Plan has a specific chapter regarding the prevention of trafficking in supply chains and public procurement. An awareness-raising campaign addressed to businesses has been developed involving information materials and workshops on companies' responsibility in preventing and combating trafficking in supply chains. Further, the OSCE's guidelines on

⁷³ Available at: <https://rm.coe.int/factsheet-womens-access-to-justice/16808ff44e>

⁷⁴ See <https://dre.pt/application/file/a/115360102>.

⁷⁵ The documents can be found at and can be found at <https://www.cnpdpjc.gov.pt/historia>.

⁷⁶ See <https://www.cig.gov.pt/wp-content/uploads/2018/06/0254602552.pdf>.

“Prevention of Trafficking in Human Beings in Supply Chains through Government Practices and Measures” has been translated into Portuguese.

141. The RSO-PT Social Responsibility Network brings together partners from public bodies, businesses, research centres, academia and NGOs in order to embrace different dimensions of corporate social responsibility, carry out studies, provide training and information, and organise awareness-raising campaigns. It also aims at contributing to sustained policies and practices of corporate social responsibility. The RSO-PT, together with the Labour Conditions Authority (ACT), has been conducting business briefing sessions in order to raise awareness of labour exploitation in supply chains and subcontractors’ networks.

142. In order to raise awareness and prevent trafficking for the purpose of labour exploitation, the multidisciplinary teams organise workshops and training addressed to companies in the agricultural sector. The main focus has been on trafficking indicators and the risks of human trafficking in subcontracting networks (see paragraphs 152-153).

143. Despite the high number of cases of labour exploitation in the agricultural sector and in subcontracting, the number of companies prosecuted and convicted for THB remains low, namely due to the almost total absence of formal requirements for opening or closing a business in Portugal. GRETA is concerned by the lack of adequate legal instruments enabling law enforcement to effectively identify and prosecute companies using this illegal business model.

144. GRETA welcomes the Portuguese authorities’ action in preventing and eradicating human trafficking from businesses and supply chains, including in the public sector. However, GRETA considers that the Portuguese authorities should make further efforts to combat THB in supply chains, including by improving the current legislation.

d. measures to prevent and detect corruption

145. Trafficking in human beings can occur in various contexts. Human traffickers may form part of organised criminal groups, which frequently use corruption to circumvent the law, and money laundering to conceal their profits.

146. The National Strategy for Combating Corruption (2020-2024), published in September 2020, identifies seven priorities: i) improving knowledge, training and good practices on transparency and integrity; ii) preventing and detecting corruption risks in the public sector; iii) involving the private sector in the prevention, detection and prosecution of corruption; iv) strengthening co-ordination between public and private sector; v) ensuring a more efficient and consistent application of the legal mechanisms for combating corruption, a rapid response of the judicial system and appropriate and effective sanctions; vi) producing and periodically disseminating reliable information on corruption; and vii) international cooperation on action against corruption.⁷⁷ The National Strategy for Combating Corruption makes reference to trafficking in human beings and facilitating illegal immigration as offences largely facilitated by corruption networks.⁷⁸ However, no specific measures are envisaged in relation to this.

147. The Portuguese authorities are not aware of any cases of corruption related to THB, nor did they report any investigations, prosecutions, or convictions of government officials alleged to have been complicit in trafficking offences.

148. GRETA invites the Portuguese authorities to include measures against corruption in a THB context in its anti-corruption policies and initiatives.

⁷⁷ See <https://www.portugal.gov.pt/download-ficheiros/ficheiro.aspx?v=%3d%3dBOAAAB%2bLCAAAAAAABAAzNDxMQAAAnRDZFAUAAAA%3d>.

⁷⁸ See National Strategy for combating corruption p. 19.

V. Follow-up topics specific to Portugal

1. Measures to prevent and combat trafficking for the purpose of labour exploitation

149. In its second report on Portugal, GRETA welcomed the efforts made to prevent trafficking for the purpose of labour exploitation and considered that the Portuguese authorities should take further measures to strengthen the monitoring of recruitment of temporary work agencies and review 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. GRETA also asked the authorities to expand the mandate of labour inspectors, by enabling them to inspect domestic households.

150. As noted in paragraph 13, THB for the purpose of labour exploitation has been the predominant form of exploitation in Portugal in recent years. In 2019, the majority of the referrals of victims (58,3%) were made in the Beja District and related to the agricultural sector. In 2020, the agricultural sector remained the most common area of labour exploitation, followed by catering, football and domestic work.

151. There have been reports about labour exploitation through subcontractors, including through companies based in Portugal and operating in other European countries.⁷⁹

152. The Labour Code was amended by Law 28/2016 which entered into force on 23 September 2016, with the aim of strengthening action against forced labour and labour exploitation. The amendment expanded the range of entities which can be held responsible in cases of labour exploitation, including all the actors involved in the recruitment and employment of workers, namely companies hiring workers (directly or through subcontractors), their CEOs and subcontractors.

153. In 2017, with a view to raising awareness among companies that have used subcontractors in the agricultural sector, the multidisciplinary team responsible for the Region of Alentejo produced a leaflet with information on the changes to the Labour Code and the sanctions for contracting and subcontracting companies. At the same time, an awareness-raising campaign was organised jointly by the Labour Conditions Authority (ACT), the SEF and the multidisciplinary teams.

154. The multidisciplinary team of Alentejo, together with the OTSH, has organised training programmes on THB indicators and the National Referral Mechanism. The training aimed at strengthening action against labour exploitation in Alentejo, a rural area with a high prevalence of THB for the purpose of labour exploitation.

155. The ACT is called upon to promote the improvement of working conditions through the application of labour standards and the monitoring of compliance with occupational health and safety legislation, as well as the promotion of occupational risk prevention policies. The ACT has the power to monitor any company, on its own initiative or when a suspicion exists, in the formal and informal economy. The number of labour inspectors has significantly increased in the last years: 303 in 2018, 337 in 2019, 430 in 2020 and 489 in 2021.

156. The authorities informed GRETA that all new labour inspectors receive training on trafficking in human beings and there were three training sessions in 2020 (two in Lisbon and one in Porto).

⁷⁹ By way of example, reference can be made to a case in which the Dendermonde Criminal Court (in Belgium) ruled on 25 June 2018 that four people, two managers and two legal persons were liable for human trafficking for the purpose of labour exploitation with aggravating circumstances, the illegal employment of foreign workers and non-payment of wages. The company employed Europeans (Portuguese and Spanish) and non-Europeans (Brazilian, Bissau-Guinean), sometimes as paid employees, sometimes as posted workers. The Belgian authorities found that the company was not active in Portugal. See 2019 Report by MYRIA, the Belgian National Rapporteur on Human Trafficking, p. 123.

157. In 2020, the ACT published an Annual Report on labour inspections,⁸⁰ according to which in 2019 the ACT prioritised interventions in the agricultural sector, identified as at-risk sector for forced labour and labour exploitation. The ACT carried out 24 inspections and assessed the working conditions of 302 workers (128 women and 174 men). The visits were mostly carried out in the districts of Évora, Santarém and Beja. When the ACT finds a situation of suspected trafficking in human beings for the purpose of labour exploitation, its inspection is carried out in co-operation with law enforcement agencies. In 2019, the ACT and the SEF participated in a Joint Action Day carried out simultaneously in several European countries, with the aim of identifying situations of human trafficking for labour exploitation. The Joint Action Day was conducted in the areas of Lisbon, Ave and Oeste, without identifying any situations of human trafficking and/or forced labour.

158. The ACT provides information to workers and companies on THB for the purpose of labour exploitation through its hotline or in-person services. With the aim of strengthening its commitment to inform and raise awareness among vulnerable groups of workers, the ACT collaborates with municipalities and local authorities and reached 144 workers in its frontal awareness-raising actions and several public administration bodies and NGOs, focusing on the prevention of labour exploitation and forced labour.⁸¹

159. NGOs have carried out several activities in 2016-2018 under the Project "*(In)Forma-te sobre o Tráfico de Seres Humanos e Exploração Laboral*" ("Be informed about Trafficking in Human Beings and Labour Exploitation"), co-financed by the Operational Programme for work and social inclusion (POISE Portugal 2020) and the EU European Social Fund, and coordinated by the CIG. The NGO Oikos organised several awareness-raising sessions on trafficking for the purpose of labour exploitation addressed to pupils, students and their teachers. Further, in October 2018, on the occasion of the European Day against Trafficking in Human Beings, an awareness raising campaign was organised involving 52 schools with a total of 29,804 students. The campaign included the exhibition of posters informing about the risks of human trafficking and labour exploitation and the organisation of workshops. A workshop was also organised and delivered through several sessions in which the students produced a theatre performance, a photographic exhibition, a mural and a video. A pedagogical kit on trafficking for labour exploitation was also developed and addressed to teachers. Information materials on preventing THB for labour exploitation were also distributed, indicating helpline contacts.

160. The NGO Saúde em Português has been involved in several awareness raising and information projects: Mercadoria Humana 3 (2016-2019),⁸² addressed at students, unemployed people, social services staff, health-care staff, people working in the building sector and tourism; Mercadoria Humana 4 (2019-2022),⁸³ addressed at unemployed people, migrants, people working in at-risk sectors and frontline staff; and Mercadoria Humana #Norte (2019-2021)⁸⁴, focused on the Northern region of Portugal.

⁸⁰ The annual report is published by the ACT in compliance with the Convention concerning Labour Inspection in Industry and Commerce, n. 81, ILO, and the Convention concerning Labour Inspection in Agriculture, n. 129, ILO.

⁸¹ See the Annual Report p. 174-175 [https://www.act.gov.pt/\(pt-PT\)/crc/PublicacoesElectronicas/InspeccaoDoTrabalho/Documents/2019%20-%20Relat%C3%B3rio%20da%20Atividade%20Inspetiva.pdf](https://www.act.gov.pt/(pt-PT)/crc/PublicacoesElectronicas/InspeccaoDoTrabalho/Documents/2019%20-%20Relat%C3%B3rio%20da%20Atividade%20Inspetiva.pdf).

⁸² [Mercadoria Humana 3 – Projeto de Sensibilização em Tráfico de Seres Humanos – Saude em Português \(saudeportugues.org\)](https://www.saudeportugues.org/mercadoria-humana-3-projeto-de-sensibilizacao-em-trafico-de-seres-humanos-saude-em-portugues)

⁸³ [Mercadoria Humana 4 – Projeto de Sensibilização em Tráfico de Seres Humanos – Saude em Português \(saudeportugues.org\)](https://www.saudeportugues.org/mercadoria-humana-4-projeto-de-sensibilizacao-em-trafico-de-seres-humanos-saude-em-portugues)

⁸⁴ [Mercadoria Humana #NORTE – Projeto de Sensibilização em Tráfico de Seres Humanos – Saude em Português \(saudeportugues.org\)](https://www.saudeportugues.org/mercadoria-humana-norte-projeto-de-sensibilizacao-em-trafico-de-seres-humanos-saude-em-portugues).

161. **GRETA considers that the Portuguese authorities should take further measures to prevent and combat trafficking for the purpose of labour exploitation, in particular by:**

- **adapting the legislative and operational framework in order to effectively prevent, detect and combat the THB in subcontracting companies and monitoring the impact of the flexibilisation of the labour market on THB;**
- **continuing to increase the ACT's staff and strengthening labour inspections in order to effectively tackle labour exploitation across the country;**
- **continuing to raise awareness among the general public and at-risk groups across Portugal (including the islands) and ensuring adequate funding.**

2. Measures to discourage demand

162. In its second report, GRETA considered 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.

163. The criminalisation of the use of services of victims of trafficking, with the knowledge that the person is a victim, is provided for in Article 160, paragraph 6, of the CC.

164. Several actions have been undertaken to discourage demand in the context of trafficking for labour exploitation (see paragraphs 152 and 158). Through the five Regional Networks (North, Centre, Lisbon, Alentejo and Algarve), the multidisciplinary teams implement several projects to raise awareness among relevant stakeholders and the general public on action against trafficking in human beings.

165. A pilot project to improve the identification and understanding of the sexual exploitation phenomenon is currently being developed in Portugal (see paragraph 169). In this context a broader discussion on strategies to discourage demand for sexual services is on the agenda of the Portuguese Parliament. There are different proposals, ranging from criminalising the purchase of sexual services, to legalising prostitution. The authorities expressed their commitment to carry out further research in order to follow an evidence-based and human rights-centred approach. GRETA notes that there are conflicting views about the effects of criminalising the purchase of sexual services on human trafficking. Without prejudice to the wide spectrum of issues surrounding this debate, GRETA stresses the importance of keeping under review the impact of any legislative reform on the identification of victims of trafficking, their protection and assistance, and the prosecution of traffickers.

166. **GRETA considers that the Portuguese authorities should continue to take legislative, administrative, educational, social, cultural or other measures to discourage demand for the services of trafficked persons, for all forms of exploitation, including by:**

- **raising awareness of the important role of the media and advertising in tackling demand which leads to human trafficking;**
- **promoting awareness among businesses, strengthening corporate social responsibility and preventing trafficking in supply chains;**
- **implementing educational programmes at schools that stress the importance of gender equality and respect for the dignity and integrity of every human being and the consequences of gender-based discrimination.**

3. Identification of victims of trafficking

167. The framework for the identification of victims of trafficking provided by the National Referral Mechanism (NRM), first set up in 2008, has already been described in GRETA's first and second evaluation reports.⁸⁵ In its second evaluation report, GRETA considered 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 multidisciplinary 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.

168. There are two routes for identifying victims of THB in Portugal: by law enforcement agencies and by the National Rapporteur for Trafficking in Human Beings. In the first case, the SEF and the Criminal Police are the two bodies which can formally identify victims of trafficking. Identification is usually accompanied by a criminal investigation. In the second case, multi-disciplinary teams refer the presumed victim to the National Rapporteur for formal identification regardless of the opening of a criminal investigation. This second route is rarely used in practice and is considered a last resort solution. GRETA notes that formal identification of THB victims depends in practice on the opening of an investigation and the outcomes of the criminal proceedings. If, for example, during the proceedings, the THB offence is dropped or requalified as another crime, presumed victims can receive assistance, including being accommodated in a shelter if they are in need of protection, but they cannot obtain a residence permit as formally identified victims of THB. GRETA recalls that the identification process provided for in Article 10 of the Convention should be independent of any criminal proceedings against those responsible for the trafficking offence, and a criminal conviction is unnecessary for either starting or completing the identification process.⁸⁶

169. As described above (see paragraph 21), five multi-disciplinary teams are currently operational across Portugal, composed of psychologists and social workers. Their main task is to assist with the initial identification and referral of victims of THB, and coordinating the support provided to them. The funding of the teams is provided by the CIG.

170. The number of presumed victims of trafficking who are detected and referred to the NRM has increased over the years, including the number of child victims (see paragraph 11). There are nevertheless concerns that trafficking for sexual exploitation is not sufficiently detected and there are gaps in the identification of victims, including among children who are recruited through the lover-boy *modus operandi*. In 2019, only 27 potential victims of sexual exploitation were identified (22 women and five girls). In July 2021, the project "Improving prevention, assistance, protection and reintegration of victims of sexual exploitation" set up by the CIG, the OTSH, the National Employment Institute, the Directorate-General for Health and NGOs was approved and is currently being implemented, with funding from the EEA Grants. The project has six main objectives: 1) to analyse the dimension of sexual exploitation in Portugal and the socio-demographic characteristics of victims and perpetrators; 2) to critically assess the efficiency of the national referral mechanism in view of improving it; 3) to evaluate the protection system from the victims' perspective in order to develop adequate information materials and improve the training of social workers; 4) to assess how gender and racial stereotypes affect victims' detection, protection and access to justice in view of developing guidelines to effectively identify and assist victims of sexual exploitation; 5) to increase co-operation between governmental and non-governmental organisations in the identification of and assistance to victims of sexual exploitation; and 6) to train relevant professionals. GRETA was also informed that a broader discussion on strategies to discourage demand for sexual services was on the agenda of the Portuguese Parliament and the new National Action Plan 2022 is expected to include relevant measures. **GRETA welcomes the adoption of this pilot project and encourages the Portuguese authorities to fully implement it.**

⁸⁵ See GRETA's second evaluation report on Portugal, paragraphs 104-106.

⁸⁶ See paragraph 13 of the Explanatory report to the Council of Europe Convention on Action against Trafficking in Human Beings.

171. The OTSH is co-operating with the NGO “Movimento Democrático de Mulheres” (MDM) in the development of a free download App for smartphones entitled “Acting against Trafficking in Human Beings” (ACT), the first version of which was launched in 2019. The App is available in Portuguese, English, Spanish, Russian, Romanian and French. It is intended to support professionals in the identification of, and assistance to, victims of THB, and can be used by civil society actors as well as vulnerable groups. Between 2019 and 2021, the OTSH provided 29 training courses addressed to relevant professionals working on THB and some 2,200 people attended these courses.

172. As noted in paragraph 17, the number of asylum seekers arriving in Portugal has increased over the years and some changes are currently underway to adapt the asylum system to the scale of this phenomenon. GRETA was informed by various interlocutors that there are gaps in the identification of victims of THB in the asylum system, due to lack of knowledge about trafficking indicators among organisations working with undocumented migrants and running reception centres for asylum seekers.⁸⁷ There is no specific protocol to be followed once potential victims of THB are identified, except to communicate the case to the SEF and/or the National Rapporteur on Human Trafficking.

173. During the evaluation visit, GRETA visited two reception centres for asylum seekers, managed by the Portuguese Council of Refugees (CPR). At the beginning of 2021, some training was provided by the IOM and the OTSH to front-line staff, law enforcement officers and NGOs. The CPR has recently started the provision of specific training on THB to its staff.

174. GRETA was informed about the critical conditions in the immigration detention centre at Lisbon Airport which was closed down in March 2020 following the death of a Ukrainian man who had been detained following refusal to allow his entry into the national territory. Three SEF staff were arrested on suspicion of having killed the Ukrainian man. The Minister of the Interior announced changes to ensure that such occurrences are not repeated and that conditions in the detention centre are improved.⁸⁸ The detention facility re-opened in August 2020 following refurbishment and the introduction of new internal regulations, including improved access to the outside world and health care services. Previously, detained migrants, including potential THB victims, had no opportunity to receive any assistance both from lawyers and NGOs. In November 2020, a protocol of co-operation was signed between the SEF, the Ministry of Justice and the National Bar Association enabling detained migrants to receive free legal assistance, in adapted spaces which respect the privacy of the exchanges with lawyers.⁸⁹ The protocol will remain into force for one year, renewable for another year. GRETA welcomes the introduction of the provision of legal assistance to detained migrants, which could assist in the detection and referral to formal identification of victims of THB.

175. Temporary detention facilities for migrants also exist in the airports of Porto and Faro. In its last report, the CPR affirmed that “while UNHCR, the CPR, legal representatives and other NGOs have effective access to asylum seekers detained at the border in accordance with the law, access to legal information as well as assistance in detention has been hindered in practice by a combination of factors, including shorter deadlines, limited capacity of service providers, poor quality of legal assistance provided by lawyers, a lack of interpretation services, and lengthy bureaucratic procedures for accessing the airports’ restricted areas.”⁹⁰ The CPR also highlighted the absence of special guarantees at the border such as social and psychological assistance, and the negative impact of detention on the mental well-being of vulnerable asylum seekers, such as THB victims.

⁸⁷ See [Portugal - Asylum Information Database | European Council on Refugees and Exiles \(asylumineurope.org\)](https://asylumineurope.org/).

⁸⁸ See [Detenção de três presumíveis autores de crime de homicídio - Polícia Judiciária \(policiajudiciaria.pt\)](https://www.pj.gov.pt/pt/actualidade/2020/03/2020-03-16-detencao-de-tres-presumiveis-autores-de-crime-de-homicidio).

⁸⁹ [Advogados: Há questões por resolver no SEF do aeroporto de Lisboa - Ordem dos Advogados](https://www.ordemadvogados.pt/pt/advogados-ha-questoes-por-resolver-no-sef-do-aeroporto-de-lisboa)

⁹⁰ See [Portugal - Asylum Information Database | European Council on Refugees and Exiles \(asylumineurope.org\)](https://asylumineurope.org/), p. 127.

176. GRETA refers to the 2020 Concluding observations of the UN Human Rights Committee, following the periodic report on Portugal, which expressed concerns about the lack of any adequate identification mechanism for victims of trafficking among persons in the asylum process, including with respect to children.⁹¹ The Committee recommended that Portugal “provide adequate training to judges, prosecutors, law enforcement officials, immigration officers and staff working in all reception facilities, including on procedures for identifying victims of trafficking in persons” and “ensure that victims of trafficking in persons have access to asylum procedures in which their potential needs can be determined”.⁹² The UN Committee Against Torture (CAT) has also expressed concerns about the lack of training of law enforcement officers and delays in the process of issuance of residence permits to victims of THB.⁹³

177. While welcoming the increase in the number of multi-disciplinary teams and the growing number of presumed victims of THB referred to the NRM, GRETA stresses that more attention should be paid to the interface between asylum and human trafficking, and urges the Portuguese authorities to:

- **set up effective procedures on the identification of victims of trafficking among applicants for international protection and their referral to assistance;**
- **provide systematic training and guidance to staff working at immigration detention facilities and asylum seekers accommodation centres, including social workers, medical and other staff, on the identification of victims of trafficking and the procedures to be followed;**
- **ensure that potential THB victims who are in immigration detention facilities and asylum seekers accommodation centres are provided with legal assistance, beyond the one year time-limit established by the Protocol signed by the SEF, the Ministry of Justice and the National Bar Association.**

178. Further, GRETA considers that the Portuguese authorities should take further steps to:

- **improve the proactive detection of victims of THB for the purpose of sexual exploitation, including through research and the provision of training to law enforcement officers on new modus operandi, following a gender-sensitive approach;**
- **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 outcome of the criminal proceedings.**

4. Identification of, and assistance to, child victims of trafficking

179. On 25 May 2021, the Portuguese authorities launched a new National Referral Mechanism (NRM) for child victims of human trafficking, which goes in the direction of implementing GRETA’s previous recommendations to improve the identification and protection of child victims of THB. The NRM Protocol provides all national authorities involved in the identification and protection of child victims with the following practical tools: 1) Guidelines for a child protective intervention (in which reference is made to the best interests of the child; right to information; the right to be heard and to participate in court proceedings); 2) Identification indicators for different forms of exploitation; 3) Guidelines for victim identification on the national territory, specifying the steps of the identification process and the responsibilities of prosecutors, judges and social workers; 4) Guidelines for victim identification at the

⁹¹ Human Rights Committee, Concluding Observations on the fifth periodic report of Portugal, CCPR/C/PRT/CO/5. 28 April 2020, par 32 and 33(b) and (c), available at: <https://bit.ly/2Q1ftn8>.

⁹² *Ibidem*.

⁹³ UN Committee Against Torture, Concluding Observations on the seventh periodic report of Portugal, CAR/C/PRT/CO/7, 18 December 2019, paragraphs 43- 44, available at <https://bit.ly/2G1F07z>.

borders; 5) Age assessment (with reference to the Council of Europe's documents);⁹⁴ 6) Appointment of a legal guardian; 7) Assistance, reception, (re)integration and repatriation; 8) Children's rights (health care; education; psychological assistance; access to justice); 9) Training. The NRM on child trafficking includes a chapter on monitoring its implementation and the setting up of a monitoring group. The OTSH is in the process of providing training to the five multi-disciplinary teams on the new NRM. **GRETA welcomes the setting up of the new NRM for children.**

180. In view of improving the prevention and detection of online sexual exploitation, the National Commission for the Protection of Children and Young People at Risk launched, in May 2020, a national campaign "Protecting children is everyone's responsibility". A helpline has been operational since May 2020 (reachable on work days from 8 a.m. to 8 p.m.) to report situations of children and young people in danger. Up to the end of December 2020, 592 communications were received, resulting in 150 reports to the competent local commissions, two cooperation actions with the Criminal Police, and 12 referrals to the General Prosecutor's Office. The helpline has been publicised through the distribution of 5 million sugar sachets, in partnership with a Portuguese company.

181. However, there is no protocol to identify presumed victims of THB among unaccompanied and separated children. The lack of identification results in the lack of targeted support and the risk of children being detained because there are undocumented. The CPR observed that "since 2016, a significant percentage of vulnerable applicants – including unaccompanied children, families with children and pregnant women – have been detained and subject to the border procedure." Following media coverage and criticism by the Ombudsman and NGOs, the Ministry of Home Affairs issued an instruction in July 2018 focusing, *inter alia*, on the detention of children at the border. The CPR subsequently noted shorter detention periods of families with children and of unaccompanied children.⁹⁵

182. In February 2021, the Secretary of State for Citizenship and Gender Equality established a working group for the prevention of child early and forced marriages,⁹⁶ composed of members of the Public Prosecutor's Office, Criminal Police, National Institute of Legal Medicine and Forensic Sciences (INMLCF), SEF, CIG, High Commission for Migration, National Commission for the Promotion of the Rights and the Protection of Children and Young People, UNICEF Portugal, specialised NGOs and experts from academia. The working group aims at raising awareness and training professionals involved in the detection of child victims of forced marriage. A report with recommendations is about to be published. A shelter for child victims of early and forced marriage is expected to be set up in the first quarter of 2022. The National Commission for the Promotion of the Rights and the Protection of Children and Young People informed GRETA that child, early and forced marriages are a matter of concern, in particular of children belonging to Roma communities.

183. In its second evaluation report, GRETA noted the lack of accommodation specially dedicated to child victims of THB and recommended that the authorities provide adequate support and services which are adapted to the needs of child victims of trafficking, including appropriate accommodation. In view of implementing this recommendation, the Portuguese authorities set up in 2018 a shelter for child victims of THB, with a capacity of seven places, located in the region of Coimbra and managed by the NGO Akto. GRETA visited this centre and observed that it provided a welcoming environment. Children are issued an individual plan, and have access to medical, legal and psychological assistance, as well as education. Multidisciplinary and specialised technical support is available at the centre, as well as a 24-hour support line. GRETA welcomes the setting up of accommodation, specifically dedicated to children and to their specific needs. The shelter is partially financed through an EU-funded project and staff noted the negative impact of the uncertainty on further funding on the sustainability of their work and the quality of the assistance. The Portuguese authorities have affirmed that EU-funded projects provide NGOs with funding

⁹⁴ "Age Assessment for Children in Migration – A human rights-based approach: A guide for policy makers" (2019) and "Child-friendly age assessment for unaccompanied migrant children" (Resolution 2195/2017, Parliamentary Assembly, Council of Europe).

⁹⁵ See [Portugal - Asylum Information Database | European Council on Refugees and Exiles \(asylumineurope.org\)](#), p. 64.

⁹⁶ See [Despacho n.º 1498-A/2021 | DRE](#).

for 34 months, which ensures a certain stability and sustainability of their activity. In addition, according to the authorities, measures have been taken to ensure a smooth and uninterrupted transition of funding for THB-funded projects between the 2014-2020 Multiannual Financial Framework (MFF) and the next one.⁹⁷ Some shelters and multidisciplinary teams are directly funded from the national budget, which is used to complement existing funding and ensure sustainability of NGOs work. **While welcoming this commitment, GRETA stresses that the sustainability of the work of NGOs is essential for ensuring effective and adequate support to victims of trafficking, and encourages the Portuguese authorities to further support the work of NGOs through adequate state funding.**

184. According to the new NRM, children can be accommodated in a centre for as long as they need it, taking into account their social integration. Children can continue receiving assistance after the age of 18. During the evaluation visit, GRETA met a young woman who had been identified when she was a child and continued to be provided with assistance at the age of 23, including support by psychologists and social workers. **GRETA welcomes this approach, based on an individual needs assessment and ensuring a smooth transition to adulthood and a targeted support throughout the path to an autonomous life. GRETA encourages the authorities to fully adopt and promote this approach, which may considerably reduce the risk of re-victimisation.**

185. As noted in GRETA's second evaluation report, there is no specific provision concerning the appointment of a legal guardian for child victims of trafficking in Portugal.⁹⁸ According to the Portuguese authorities, the relevant provisions of Article 10(4)(a) of the Council of Europe Anti-Trafficking Convention are transposed by the Law for the Protection of Children and Young People at Risk. According to this law, when children are accommodated in a shelter (which is the case when they are unaccompanied or when the family is involved in the crime), guardianship duties are exercised by the director of the institution where the child is placed. In case of unaccompanied children claiming international protection, the SEF notifies the court, which is responsible for appointing a legal guardian (Article 79 of Law 27/2008, as amended by Law 26/2014). Pursuant to Article 22, paragraph, 3 of Law 130/2015, child victims of trafficking are entitled to be assisted by a legal guardian in criminal proceedings, without prejudice to their right to be assisted by a lawyer if they request it or if there is a conflict of interest with the legal guardian. The new Protocol on the NRM for children refers to the legislation on the appointment of legal guardians and indicates the duties of legal guardians.⁹⁹

186. **While welcoming the significant improvements introduced by the new NRM for children, GRETA considers that the Portuguese authorities should take further steps to improve the identification and assistance of child victims of THB, and in particular:**

- **establish protocols and develop guidance on the identification of child victims of trafficking among unaccompanied and separated asylum-seeking children;**
- **provide systematic training to staff working at facilities for asylum seekers and detained migrants on the identification of child victims of trafficking and the procedures to be followed;**
- **ensure the sustainability of funding of the shelter for child victims of THB;**
- **ensure the timely appointment of legal guardians for child victims.**

⁹⁷ See Order No. 305/2021, available at: <https://files.dre.pt/1s/2021/12/24300/0021400215.pdf>.

⁹⁸ See GRETA's second report on Portugal, paragraph 122.

⁹⁹ New NRM for children, pp 85-99.

5. Assistance to victims

187. Portugal has considerably improved the provision of accommodation and other assistance to victims of THB since GRETA's first evaluation and the number of shelters has increased from one to five: two for female victims, one located in Porto, managed by APF, and one in Faro, managed by APAV; two for male victims, one located in Coimbra, run by the NGO Saude em Português, and one located in Alentejo, run by APF; and one shelter for children, located in the region of Coimbra and managed by Akto.

188. In 2019, 57 presumed victims of TB were assisted in shelters (40 male and 17 were female); 43 of them received psychological/medical assistance, 35 received legal assistance, 23 received education/training, 17 received support in accessing the labour market or obtained an employment. The shelters' location is safe and secret and professional support is available 24 hours a day.

189. The offer of assistance has been reinforced with the opening of two centres providing long-term assistance and social integration to victims. Their goal is to provide a smooth and safe transition to an autonomous life. One of them, for women and their children, was set up in 2019 in the region of Porto and is managed by the NGO APF. The other one, for male victims, was opened in Coimbra in 2021 and is managed by the NGO Saude em Português.

190. During the visit, the GRETA delegation visited the shelter and the centre providing long-term assistance for male victims of THB in Coimbra. The shelter has a maximum capacity of 12 places and since 2017, 55 victims have been accommodated in it (12 in 2017; 15 in 2018; 9 in 2020 and 15 in 2021). The centre for long-term assistance has a maximum capacity of four places and victims can remain in it for as long as needed.

191. GRETA delegation also visited the shelter and the centre providing long-term assistance for female victims in Porto. Victims are accommodated in an environment which promotes their emotional and physical stability, benefiting from social and psychological support. They are informed about the decision-making process, receive legal assistance, support to find employment, social integration and support in assisted returns.

192. As noted in paragraph 21, the five regional multi-disciplinary teams co-ordinate the provision of assistance measures to victims of THB. Each team covers a region of Portugal and has a regional network of partners, including police forces, health services, social and educational services, and NGOs. The multi-disciplinary teams have a key role in the identification process and supporting victims by providing safe accommodation, psychological assistance, legal assistance and other services. However, the absence of multi-disciplinary teams in the islands of Madeira and the Azores is problematic. A project focused on awareness raising among professionals involved in action against THB is currently being carried on by the NGO APF in Madeira.

193. **GRETA welcomes the expansion of the network of shelters and the setting up of long-term centres facilitating victims' reintegration and recovery, and considers that the Portuguese authorities should take further steps to ensure that:**

- **assistance is provided to presumed THB victims who are detained in detention centres for migrants, by setting up specific protocols and by providing specific training on trafficking indicators to police forces, social workers, medical and other staff working at facilities for asylum seekers and detained migrants;**
- **adequate state funding is provided to the multi-disciplinary teams and NGOs running shelters to ensure their sustainability.**

6. Recovery and reflection period

194. The legal provisions concerning the recovery and reflection period have not changed. Pursuant to Law 23/2007 on the Entry, Stay, Exit and Removal of Foreigners from Portugal, as amended though Law N29/2012, third-country nationals are entitled to a recovery and reflection period of a minimum of 30 days and a maximum of 60 days. 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. 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. The recovery and reflection period is not expressly applicable to EU nationals since they do not need a visa to remain in Portugal; however, the Portuguese authorities assured GRETA that this right is in practice recognised for all presumed victims of trafficking.

195. According to information provided by the Portuguese authorities, the number of victims granted a recovery and reflection period was 32 in 2016 (including three children), 59 in 2017 (including 18 children) and 51 in 2018 (including 16 children).

196. GRETA considers that the Portuguese authorities should take further 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.

7. Residence permit

197. As described GRETA's second evaluation report,¹⁰⁰ Article 109 of Law 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 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 (Decree Law 368/2007). 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 Rapporteur.

198. According to information provided by the Portuguese authorities, the number of victims granted a residence permit pursuant to Article 109 of Law 23/2007 was 31 in 2016, 7 in 2017, 9 in 2018, 16 in 2019 and 20 in 2020. Only one of the victims, in 2019, was a child. According to data provided, it is not possible to distinguish between residence permits issued for the purpose of victims' co-operation with the criminal justice system and those issued on account of the victims' personal situation. There is no information on the number of victims of THB granted international protection.

199. The issuing of a residence permit is a precondition for victims' access to their rights, such as legal aid, work, general healthcare system etc. According to NGOs, the procedure for obtaining a residence permit takes a long time and, in the meantime, victims of THB experience delays in access to legal aid, health care and employment (see also paragraph 55).

¹⁰⁰ See GRETA's second evaluation report on Portugal, paragraph 138.

200. GRETA is concerned by the limited number of residence permits issued to victims of THB, and also notes with concern the length of the procedure for obtaining a resident permit, which leaves victims in a situation of uncertainty, increasing their vulnerability. Further, GRETA recalls that the Convention provides that residence permits for child victims are to be “issued in accordance with the best interests of the child and, where appropriate, renewed under the same conditions” (Article 14, paragraph 2).

201. **GRETA urges the Portuguese authorities to take further steps to:**

- **ensure that victims of trafficking can benefit in practice and in a timely manner from the right to obtain a residence permit, when their personal situation warrants it or when they are co-operating with the authorities in criminal investigations or proceedings and their presence in Portugal is required for this purpose, in accordance with Article 14(1) of the Convention;**
- **ensure that child victims are issued such residence permits, in accordance with the best interests of the child, pursuant to Article 14(2) of the Convention.**

8. Repatriation and return of victims

202. In the second evaluation report, GRETA urged the Portuguese authorities to establish repatriation programmes ensuring 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.

203. It is part of the responsibilities of the multi-disciplinary teams to guarantee victims’ safe return and reintegration. The NGO APF, which runs the multi-disciplinary teams, is in charge of co-ordinating the return of victims of THB. The multi-disciplinary teams provide psycho-social support to victims who wish to return, organise the financial, security and logistical aspects of the journey, and liaise with relevant organisations in the country of return. Risk assessment is carried out by the multi-disciplinary teams, based on information obtained from the police. Contacts are made with the authorities and NGOs in the country of return in order to assess the support that would be provided after the return.

204. The SEF and IOM have signed a Protocol on Assisted Voluntary Return and Reintegration Programme (ARVORE, pursuant to Article 139 of Law 23/2007). The Protocol is funded by the EU Asylum, Migration and Integration Fund (AMIF). Victims receive individualised counselling, referral to specific services in cases of vulnerability, and logistical support. In the country of origin, they can benefit from short and/or medium-term reintegration assistance, including support in starting a small business, vocational training, medical treatment and other special needs.¹⁰¹ They can also receive reintegration support for a maximum of 2,000 EUR. IOM works closely with APF, Saude em Portugues and APAV in the organisation of voluntary returns on victims of THB.

205. According to the information provided by the Portuguese authorities, the number of victims of THB who benefited from assisted voluntary return was as follows: 12 in 2016, 4 in 2017, 6 in 2018, 6 in 2019 and 15 in 2020.

206. The new NRM for children has a specific chapter on repatriation. The decision is taken by a judge based on the best interests of the child. Before the adoption of the decision, the legal guardian should be heard and the child should be informed about his/her rights and should be enabled to participate in the proceedings. Information on the child’s personal and familial history, conditions in the country of origin, economic and psychosocial situation of the family and the condition of the reception centre should be carefully assessed.¹⁰²

¹⁰¹ [OIM \(retornovoluntario.pt\)](https://oim.pt/retornovoluntario).

¹⁰² New NRM on children, p. 103.

207. GRETA was informed about the repatriation to Angola, in January 2020, of two presumed victims of THB, aged 6 and 15. A criminal investigation was ongoing into the trafficking of the children when the family court decided to repatriate them. This reportedly occurred because of lack of communication between the family court and the public prosecutor. The decision was made, despite the contrary advice of the children's legal guardian, who highlighted the risk of re-victimisation, considering the possible involvement of the family in the trafficking. The children's opinion was not taken into account by the judge. GRETA notes that Directive 1/2021 of the General Prosecutor's Office, providing guidelines for trafficking cases, expressly states that, where children and young people are involved, family and minors' courts should be immediately informed, in view of ensuring coordination and the adoption of the most appropriate measures, according to the best interests of the child. While welcoming the adoption of the Directive, GRETA is concerned by the circumstances of the repatriation of the two Angolan children.

208. **GRETA considers that the Portuguese authorities should take further steps to ensure that:**

- **the return of victims of trafficking is conducted with due regard for their rights, safety and dignity, is preferably voluntary and complies with the obligation of *non-refoulement*. This includes informing victims about existing support programmes, protecting them from re-victimisation and re-trafficking. Full consideration should be given to the UNHCR's guidelines on the application of the Refugees Convention to trafficked people and to GRETA's Guidance Note on the entitlement of victims of human trafficking, and persons at risk of being trafficked, to international protection;¹⁰³**
- **the best interests of the child are effectively respected, protected and fulfilled, including by ensuring information exchange between family courts and criminal courts/public prosecutors.**

209. **Further, GRETA invites the Portuguese authorities to continue to ensure that pre-removal risk and security assessments are carried out by specialised bodies, working with relevant partners in countries of return; such assessments should also ensure effective enjoyment of the child's right to education and measures to secure adequate care or receipt by the family or appropriate care structures in countries of return (Article 16 (5) of the Convention).**

¹⁰³

<https://rm.coe.int/guidance-note-on-the-entitlement-of-victims-of-trafficking-and-persons/16809ebf44>

Appendix 1 - List of GRETA's conclusions and proposals for action

The position of the proposals for action in the text of the report is shown in parentheses.

Topics related to the third evaluation round of the Convention

Right to information

- GRETA welcomes the steps taken to provide victims of human trafficking with information and the publication of the new "Status of particularly vulnerable victims", and invites the Portuguese authorities to continue strengthening the systematic provision of information to presumed victims of trafficking (adults and children) regarding their rights, the services available and how to access them, in a language that the victim understands (paragraph 50);
- GRETA considers that the Portuguese authorities should set up a list of certified interpreters and translators and ensure the availability in practice and at all stages of the identification and criminal proceedings of qualified interpreters/translators, including by providing adequate funding to ensure adequate quality of interpreting and translation services, as well as translating the "Status of particularly vulnerable victims" into other languages (paragraph 51).

Legal assistance and free legal aid

- Noting that access to legal assistance and free legal aid is essential for victims' access to justice, GRETA urges the Portuguese authorities to take further steps to ensure that:
 - all victims, including third-country nationals, can effectively access legal assistance and legal aid, by reviewing the eligibility criteria, as well as by ensuring that the Social Security Institute decides on requests for legal aid in a timely manner and that residence permit requests are processed in a timely manner;
 - legal assistance is provided as soon as there are reasonable grounds for believing that a person is a victim of human trafficking and legal aid is provided to victims of trafficking before they make an official statement (paragraph 65);
- GRETA considers that the Portuguese authorities should:
 - take further steps to ensure that victims of THB are assisted by trained lawyers when they give a statement for future use;
 - raise awareness among Bar Associations on the need to encourage training and specialisation of lawyers, and ensure that trafficking victims are assisted by specialised lawyers;
 - review the system of remuneration of ex-officio lawyers in order to ensure that appointed lawyers are sufficiently remunerated and reimbursed for travel costs;
 - collect statistics on victims' access to legal aid (paragraph 66).

Psychological assistance

- GRETA welcomes the psychological support provided by the regional multi-disciplinary teams and NGOs running shelters, and invites the Portuguese authorities to continue ensuring adequate funding for the provision of psychological support (paragraph 70).

Access to work, vocational training and education

- GRETA welcomes the creation of the two centres providing long-term support to victims of THB and invites the Portuguese authorities to further support such initiatives, including by providing adequate funding (paragraph 72);
- GRETA invites the Portuguese authorities to further support victims of THB in their economic and social inclusion, by providing adequate funding to NGOs and the multi-disciplinary teams and by raising awareness amongst different employers, social enterprises and public-private partnerships, including through state supported employment programmes, with a view to creating appropriate work opportunities for victims of trafficking (paragraph 76).

Compensation

- GRETA urges the Portuguese authorities to step up their efforts to guarantee effective access to compensation for victims of trafficking, in line with Article 15 of the Convention, including by:
 - enabling victims of trafficking to effectively exercise their right to obtain compensation from perpetrators, by making full use of the legislation and, in particular, Article 82 of the CPC and Article 130, paragraph 2, of the CC, as well as the legislation on the freezing and forfeiture of assets and international co-operation and by ensuring legal support for victims in proceedings to enforce compensation claims awarded;
 - enabling victims of trafficking to effectively exercise their right to obtain state compensation, by reviewing the criteria for obtaining it (in particular, the criterion of temporary or permanent work incapacity of at least 30 days), ensuring victims' access to legal aid when submitting applications to the Commission for the Protection of Victims of Violent Crimes (CPVC) and reducing the length of the procedure;
 - improving training programmes on THB and on victims' access to compensation for legal practitioners, prosecutors and the judiciary, and encouraging them to use all the possibilities the law offers to uphold compensation claims by victims of THB (paragraph 89);
- GRETA considers that the Portuguese authorities should collect court statistics on compensation claims brought by victims of trafficking and the amounts granted (paragraph 90).

Investigations, prosecutions, sanctions and measures

- GRETA considers that the Portuguese authorities should take further steps to ensure that THB cases are investigated proactively, prosecuted, and lead to effective, proportionate and dissuasive sanctions. In this context, the authorities should:
 - step up their efforts to ensure that trafficking offences are classified as such every time the circumstances of a case allow this, including cases characterised by the absence of physical violence and the abuse of a position of vulnerability of the victim;
 - make full use of the tools of criminal procedural law ensuring an effective investigation, while respecting the rights and safety needs of the victim. In this context, the General Prosecutor's Office Directive No. 1/2021 should be fully implemented;

- strengthen the conduct of financial investigations in THB cases with a view to securing confiscations and compensation for victims;
- take adequate measures to ensure that the reform of the SEF does not result in the loss of knowledge and expertise in the fight against trafficking in human beings;
- continue providing training to law enforcement officers, prosecutors and judges on the specificities of THB, the severe impact of exploitation on the victims and the need to respect their human rights. The interpretation of the concept of "abuse of position of vulnerability" should be included in training programmes to ensure its application in practice;
- ensure that the criminal justice system is supported by adequate funding (paragraph 104).

Non-punishment provision

- 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 non-punishment provision (paragraph 111).

Protection of victims and witnesses

- GRETA welcomes the Portuguese authorities' efforts to improve the protection measures and invites them to ensure that the available protection measures are fully and effectively applied to victims and witnesses of THB, with a view to preventing intimidation during the investigation, as well as during and after the court proceedings (paragraph 120).

Specialised authorities and co-ordinating bodies

- GRETA welcomes the Portuguese authorities' efforts to establish institutional and operational coordination on action against trafficking and stresses the importance of having specialised law enforcement units for effective action against trafficking in human and co-ordination and information exchange at operational level. GRETA invites the authorities to take all necessary measures to ensure that the reorganisation of the SEF and the changes in its competences and responsibilities are not to the detriment of the specialisation on action against trafficking (paragraph 125).

International co-operation

- GRETA welcomes the Portuguese authorities' engagement in international co-operation in the investigation and prosecution of THB, and invites them to continue their efforts, in particular in the prevention of THB, financial investigations and evaluating the risks of the return of victims of trafficking (paragraph 132).

Child-sensitive procedures for obtaining access to justice and remedies

- GRETA welcomes the setting up of child-friendly interview rooms in courts and police facilities and invites the Portuguese authorities to further develop the availability of such rooms and to ensure that all child victims of THB are interviewed in them (paragraph 139).

Role of businesses

- GRETA welcomes the Portuguese authorities' action in preventing and eradicating human trafficking from businesses and supply chains, including in the public sector. However, GRETA considers that the Portuguese authorities should make further efforts to combat THB in supply chains, including by improving the current legislation (paragraph 144).

Measures to prevent and detect corruption

- GRETA invites the Portuguese authorities to include measures against corruption in a THB context in its anti-corruption policies and initiatives (paragraph 148).

Follow-up topics specific to Portugal

Developments in the legislative, institutional and policy framework for action against human trafficking

- 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 19).

Measures to prevent and combat trafficking for the purpose of labour exploitation

- GRETA considers that the Portuguese authorities should take further measures to prevent and combat trafficking for the purpose of labour exploitation, in particular by:
 - adapting the legislative and operational framework in order to effectively prevent, detect and combat the THB in subcontracting companies and monitoring the impact of the flexibilisation of the labour market on THB;
 - continuing to increase the ACT's staff and strengthening labour inspections in order to effectively tackle labour exploitation across the country;
 - continuing to raise awareness among the general public and at-risk groups across Portugal (including the islands) and ensuring adequate funding (paragraph 161).

Measures to discourage demand

- GRETA considers that the Portuguese authorities should continue to take legislative, administrative, educational, social, cultural or other measures to discourage demand for the services of trafficked persons, for all forms of exploitation, including by:
 - raising awareness of the important role of the media and advertising in tackling demand which leads to human trafficking;
 - promoting awareness among businesses, strengthening corporate social responsibility and preventing trafficking in supply chains;
 - implementing educational programmes at schools that stress the importance of gender equality and respect for the dignity and integrity of every human being and the consequences of gender-based discrimination (paragraph 166).

Identification of victims of trafficking

- While welcoming the increase in the number of multi-disciplinary teams and the growing number of presumed victims of THB referred to the NRM, GRETA stresses that more attention should be paid to the interface between asylum and human trafficking, and urges the Portuguese authorities to:
 - set up effective procedures on the identification of victims of trafficking among applicants for international protection and their referral to assistance;
 - provide systematic training and guidance to staff working at immigration detention facilities and asylum seekers accommodation centres, including social workers, medical and other staff, on the identification of victims of trafficking and the procedures to be followed;
 - ensure that potential THB victims who are in immigration detention facilities and asylum seekers accommodation centres are provided with legal assistance, beyond the one year's time-limit established by the Protocol signed by the SEF, the Ministry of Justice and the National Bar Association (paragraph 177).
- GRETA considers that the Portuguese authorities should take further steps to:
 - improve the proactive detection of victims of THB for the purpose of sexual exploitation, including through research and the provision of training to law enforcement officers on new modus operandi, following a gender-sensitive approach;
 - 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 outcome of the criminal proceedings (paragraph 178).

Identification of, and assistance to, child victims of trafficking

- While welcoming the significant improvements introduced by the new NRM for children, GRETA considers that the Portuguese authorities should take further steps to improve the identification and assistance of child victims of THB, and in particular:
 - establish protocols and develop guidance on the identification of child victims of trafficking among unaccompanied and separated asylum-seeking children;
 - provide systematic training to staff working at facilities for asylum seekers and detained migrants on the identification of child victims of trafficking and the procedures to be followed;
 - ensure the sustainability of funding of the shelter for child victims of THB;
 - ensure the timely appointment of legal guardians for child victims (paragraph 186).

Assistance to victims

- GRETA welcomes the expansion of the network of shelters and the setting up of long-term centres facilitating victims' reintegration and recovery, and considers that the Portuguese authorities should take further steps to ensure that:

- assistance is provided to presumed THB victims who are detained in detention centres for migrants, by setting up specific protocols and by providing specific training on trafficking indicators to police forces, social workers, medical and other staff working at facilities for asylum seekers and detained migrants;
- adequate state funding is provided to the multi-disciplinary teams and NGOs running shelters to ensure their sustainability (paragraph 193).

Recovery and reflection period

- GRETA considers that the Portuguese authorities should take further 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 (paragraph 196).

Residence permit

- GRETA urges the Portuguese authorities to take further steps to:
 - ensure that victims of trafficking can benefit in practice and in a timely manner from the right to obtain a residence permit, when their personal situation warrants it or when they are co-operating with the authorities in criminal investigations or proceedings and their presence in Portugal is required for this purpose, in accordance with Article 14(1) of the Convention;
 - ensure that child victims are issued such residence permits, in accordance with the best interests of the child, pursuant to Article 14(2) of the Convention (paragraph 201).

Repatriation and return of victims

- GRETA considers that the Portuguese authorities should take further steps to ensure that:
 - the return of victims of trafficking is conducted with due regard for their rights, safety and dignity, is preferably voluntary and complies with the obligation of *non-refoulement*. This includes informing victims about existing support programmes, protecting them from re-victimisation and re-trafficking. Full consideration should be given to the UNHCR's guidelines on the application of the Refugees Convention to trafficked people and to GRETA's Guidance Note on the entitlement of victims of human trafficking, and persons at risk of being trafficked, to international protection;
 - the best interests of the child are effectively respected, protected and fulfilled, including by ensuring information exchange between family courts and criminal courts/public prosecutors (paragraph 208).
- GRETA invites the Portuguese authorities to continue to ensure that pre-removal risk and security assessments are carried out by specialised bodies, working with relevant partners in countries of return; such assessments should also ensure effective enjoyment of the child's right to education and measures to secure adequate care or receipt by the family or appropriate care structures in countries of return (Article 16 (5) of the Convention) (paragraph 209).

Appendix 2 - List of public bodies, intergovernmental organisations and civil society actors with which GRETA held consultations

Public bodies

- Ms Rosa Monteiro, Secretary of State for Citizenship and Gender Equality
- Mr Manuel Albano, National Rapporteur for Trafficking in Human Beings
- Observatory of Trafficking in Human Beings (OTSH)
- Immigration and Border Service (SEF)
- Criminal Police
- Prosecutor General's Office
- Superior Council of Magistracy
- Commission for the Protection of Victims of Crime (CPVC)
- Labour Conditions Authority (ACT)
- National Commission for the Promotion of Rights and Protection of Children and Young People(CNPDPCJ)
- High Commission for Migration (ACM)
- Portuguese Parliament
- Ombudsperson of Portugal

Intergovernmental organisations

- International Organization for Migration (IOM)

NGOs and other civil society organisations

- Portuguese National Bar
- Associação Portuguesa de Apoio à Vítima (APAV)
- Associação para o Planeamento da Família (APF)
- Saúde em Português
- AKTO
- Conselho Português para os Refugiados Portuguese Refugee Council
- Instituto de Apoio à Criança (IAC)
- Plataforma Portuguesa para os Direitos das Mulheres
- Movimento Democrático de Mulheres (MDM)
- 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 21 April 2022 and invited them to submit any final comments. The comments of the authorities, submitted on 20 May 2022, are reproduced hereafter.

**COMMENTS TO THE 3RD REPORT ON THE EVALUATION OF CoE CONVENTION AGAINST
TRAFFICKING IN HUMAN BEINGS
PORTUGAL - MAY 2022**

List of GRETA's proposals

COMMENTS from PORTUGAL

51. Portugal will take note of this recommendation.

89. Portugal will take note of this recommendation.

104. Portugal will take note of this recommendation.

111. As mentioned in the second report by the Portuguese authorities, Article 280 of the Code of Criminal Procedure can be applied to victims of trafficking, who have participated in illegal activities under duress, if the proceedings relate to a crime for 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, honor 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 behavior).

Discharge requirements are provided by Article 74 (1) CC, and, in such cases, the judge may decide to the "discontinuance for discharge" of the proceeding.

Furthermore, the principle of non-punishment as part of the Convention, constitutes a law in force in Portugal and therefore immediately applicable.

It is also important to highlight the Explanatory Reports that states "274. Each Party can comply with the obligation established in Article 26, by providing for a substantive criminal or procedural criminal law provision, or any other measure, allowing for the possibility of not punishing victims when the above-mentioned legal requirements are met, in accordance with the basic principles of every national legal system.

Thus, Portugal has in its legal provisions the rule of non-punishment. As previously explained, these measures ensure compliance with that principle. The Explanatory Report allows for the existence of "any other measure". The aim is not to have an explicit article, but the non-punishment as objective. Thus, Portugal is in compliance with article 26 of the Convention.

**COMMENTS TO THE 3RD REPORT ON THE EVALUATION OF CoE CONVENTION AGAINST
TRAFFICKING IN HUMAN BEINGS
PORTUGAL - MAY 2022**

143. - 144.

The exercise of the activity of temporary employment agencies is subject to the issuance of a licence, which must be included in a numbered permit.

The breach of those provisions constitutes a very serious administrative infraction.

The public employment service maintains an updated national register of temporary employment agencies and make it electronically available for public access.

The register identify the licensed agencies and those in which the suspension of activity, lapse or termination of the licence or application of an ancillary penalty occurs, indicating, for each one, its full name, address or registered office, and its permit number.

The referred register has a public character, and any interested party may request a certificate of the entries contained therein.

In addition to the accessory sanctions provided for in the Labour Code, the exercise of the activity of assigning temporary workers to users without a license or with a suspended license is also punishable by an order to close the establishment where the activity is carried out until the situation is regularised, together with a fine.

The Authority for Working Conditions gives the closure order. The accessory sanctions referred are record in the register.

Procedure for granting a licence to exercise the activity of a temporary work company is as follows

To be granted a licence, the interested party presents the application for a license to exercise the activity of temporary cession of workers for occupation by users, namely electronically, in any local organic unit of the public employment service, with the indication of the activities to be exercised and instructed with the following documents:

a) Declaration in which the applicant indicates his name, taxpayer number, identity card number or civil identification number, and domicile or, if he is a legal person, the name, registered office, legal person number, updated commercial register of incorporation and amendment of the articles of association, the names of the members of the corporate bodies and, in both cases, the location of the establishments in which he carries out the activity;

b) Documents issued by the competent authorities proving the good standing of the applicant and, in case of a legal person, of the partners, managers, directors or administrators;

c) A certificate proving that the applicant is not under the suspension or interdiction of the activity as an accessory sanction of administrative offence, issued by the service with inspection competencies of the Ministry responsible for the employment area and by the service with inspection competencies of the Ministry responsible for the economy area;

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d) Copy of the memorandum and articles of association, in the case of a legal person;

e) Proof of the requisites of the adequate organizational structure for the exercise of the activity or a statement under oath of the requisites that it satisfies if the license is granted;

f) Declaration in which it constituted a bond if the licence is granted. In order to prove the regularized situation before the tax administration and social security, in relation to the exercise of previous activities, independently of these being or not terminated, the applicant must consent to the consultation by the public employment service, in the terms foreseen in Decree-Law 114/2007, of 19 April, or in its absence, presentation of a certificate of regularized tax or contributory situation.

The public employment service considers the request and prepares a report and makes a proposal for a decision within 30 days.

The request's decision is of the member of the Government responsible for the area of employment, with the power to delegate competences.

After signing the order for the issuing of the licence, the public employment service shall notify the applicant to, within 30 days, provide proof of the lodging of a bond and the existence of an organisational structure and adequate facilities for the exercise of the activity he or she has undertaken to satisfy.

The licence shall only be issued and notified to the applicant after presentation of the proof referred to in the previous point.

<https://eportugal.gov.pt/servicos/requerer-a-emissao-de-licenciamento-de-empresa-de-trabalho-temporario>

Procedures for setting up a service company.

On another hand, a service company can be created on the Spot. It is a simple and quick, way to create a company in a one-stop shop.

The entire process of incorporating a commercial company or civil partnership in commercial form can be done in a single branch, in a single moment. This service enables the creation of commercial companies such as:

-limited companies;

-sole proprietorship companies;

-public limited companies.

European public limited companies cannot be created at these counters.

<https://justica.gov.pt/Servicos/Empresa-na-Hora>

or

<https://justica.gov.pt/Portals/0/IRN/incorporating-company-guide-LINKS.PDF?ver=2020-01-30-214952-110>

144. Portugal will take note of this recommendation.

150. Portugal will take note of this recommendation.

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160. Portugal will take note of this recommendation.

176. Portugal will take note of this recommendation.

177. The project “Improved prevention, assistance, protection and (re)integration system for victims of sexual exploitation” (EEAGrants) (see bullet 169) was developed to address some of the points raised in the first paragraph.

Concerning the second paragraph, it is important to highlight that according to the Decree Law n.º 368/2007, a victim of trafficking, even unable or unwilling to cooperate with the authorities can be granted a residence permit. The Sole art.º of this Decree-Law stipulates that a residence permit can be issued to VOT that:

- a) fear for their safety and the safety of their family members;
- b) fear for their health and the health of their relatives;
- c) have a frail familiar situation;
- d) are found to be vulnerable under any attending circumstance.

This residence permit can be granted based on a proposal made by the National Rapporteur, the police and judicial authorities. The need to protection – and therefore the renewal of the residence permit is allowed as long as the victim and the victim’s family need protection.

So, the formal identification of victims of THB does not depend exclusively on their co-operation with law enforcement agencies and on the outcome of the criminal proceedings.

185. Portugal will take note of this recommendation.

200. Portugal will take note of this recommendation.

207. Portugal will take note of this recommendation.