

PORTUGAL

This text is largely based on the report on the E-Notes, Report on the implementation of anti-trafficking policies and interventions in the 27 EU Member States from a human rights perspective (2008 and 2009), Fermo, (Italy) 2009; chapter on Portugal, p. 188 – 192, written by Rita Moreira, Associação para o Planeamento da Família Delegação Norte (APF), Porto.

Portugal is mainly a transit and destination country of human trafficking. Trafficked persons are generally women from Brazil, particularly from Gûias, Rio de Janeiro, Pernanbuco and Rio Grande do Sul; followed by women from Central and Eastern Europe as well as Africa (mostly Mozambique, Nigeria and Morocco). In Portugal, women are sexually exploited, especially in bars and apartments in large urban centres of the north and the centre/ north. Cases of women forced to work in bars and prostitute themselves at the border with Spain have also been reported. In the last two years, victims identified were mainly women between 26 and 31 (19%). Men are also trafficked to Portugal both for sexual and labour exploitation. About half of identified trafficked persons were regularly residing in the country. Victims are generally recruited by means of false job offers.

National anti-trafficking legislation and institutions

Portugal has ratified the Council of Europe Convention on Action against Trafficking in Human Beings. Portuguese legislation covers all forms of exploitation, and foresees substantial differences between the offence of trafficking of adults and trafficking of children. Legal provisions on human trafficking were updated recently, through Law 59/2007 of September 4, Article 160 of the Penal Code. The new legislation meets the requirements of the Council of Europe Convention and the EU Framework Decision 2002/629/JHA. The crime of trafficking in persons is included in the chapter on crimes against personal liberty, following the crime of slavery. The law prescribes the criminalisation of the exploitation of any situation of vulnerability. Explicit reference to adoption for trafficking purposes and criminalization of the adopter are included. Aggravated offences are foreseen if a child was subjected to coercive means. The revision of the Penal Code also resulted in the introduction of a provision on the criminal liability of legal persons.

In the 'Plan for the Integration of Immigrants' (Council of Ministers Resolution No. 63-A/2007 of May 3), a chapter relating to Trafficking in Human Beings has been introduced, which includes the definition of the status of victim of trafficking. The Plan also established the creation of a shelter for victims of trafficking, and the Trafficking in Human Beings Observatory. Furthermore, the National Action Plan for Inclusion (NAP) foresees the adoption of a model care of victims of human trafficking, the setup of a temporary shelter for victims and of a multidisciplinary team of professionals to work with victims Portugal adopted the first National Action Plan against Human Trafficking on 6 June 007 (2007/2010). It includes policy measures to address prosecution, as well as prevention and protection of victims of the crime.



The Council of Ministers has also resolved to: - Designate the Commission for Citizenship and Gender Equality (CIG) as the responsible entity for assisting in the Plan's coordination and follow-up on the implementation of its measures, requesting the government to designate a competent coordinator; - Determine that the functions of the National Rapporteur on Trafficking in Human Beings are part of the responsibilities of the Plan's Coordinator. The National Rapporteur will liaise with counterparts at the international level; promote and participate in the development of structures and networks nationally and internationally; and ensure the final evaluation of the implementation of the Plan by an external entity. - Create a Technical Support Commission to complement the role of the Coordinator. The Commission will include a representative per each of the following institutions: Council's Presidency, Ministry of Internal Affairs, Ministry of Justice, Ministry of Labour and Social Solidarity, Ministry of Foreign Affairs. Identification, protection of rights, and referral In Portugal, the inter-ministerial governmental body that guarantees coordination of the policies, strategies and initiatives on trafficking in human beings established the partnership for a pilot project on Trafficking in Human Beings, financed by EQUAL, Project CAIM. The project resulted in the development of a number of studies by national and international NGOs and the definition of an intervention model that is now reflected in the national referral mechanism. This defines roles for the different agencies, i.e. how to respond when a trafficked person is identified and to which agency s/he should be referred. The identification procedure is adequate to "ensure that, if the competent authorities have reasonable grounds to believe that a person has been victim of trafficking in human beings, that person shall not be removed from its territory until the identification process as victim happens". The adoption of instruments such as the standardised registration guide, the creation of an observatory in relation to trafficking issues and the development of an annual forum extended to all personnel involved in this domain are expected to contribute significantly to increase the knowledge base and improve the response to the phenomenon of human trafficking in Portugal.

The structure of the referral mechanism consists in a formal signed agreement between government agencies and APF and a protocol between all NGOs that agreed to use the standard instruments and be part of the national referral mechanism. Since June 2008, any organisation, NGO, social services or individual, including the victims themselves, may report cases of human trafficking to the multidisciplinary team (NGO Family Planning Association and Gender and Equality Citizen Commission).

The law enforcement agencies (i.e. Foreign and Border Police, Judiciary Police, Public Security Police, Republican National Guard) are required to report the cases to the OPCs Focal Point (specialized police unit). When reporting cases of trafficking, the law enforcement agencies must fill in the Unified Register Form, while the NGOs must fill in the Signalling Guide; both will then send the records to the Observatory on Trafficking in Human Beings.

The identification process is carried out by the judicial authority or the Focal Point within the police or by the Coordinator of the National Plan against Trafficking in Human Beings (PNCTSH). OPC



indicators are used as a checklist in the context of a formal identification procedure, so that a presumed trafficked person will only be identified as such if some of the characteristics suggested on the list of indicators are present. The OPC indicators are similar to the Operational indicators of trafficking in human beings of ILO and the European Commission. A multidisciplinary team including specialised support service providers and OPC focal points work together during investigations, the rescuing and identification processes. The mechanism does not work 100% but its efficiency is gradually increasing.

Law no. 23/2007 of July 4 regulates the legal system for the entry, stay, exit and removal of foreigners from national territory and includes provisions on reflection and recovery period for victims of human trafficking. Trafficked persons may be granted a reflection period of 30 to 60 days during which they have access to different types of supports, such as safety, social services, psychological support, legal advice, medical assistance, translation and interpretation. Support is offered by a core technical team and the Shelter and Protection Centre (CAP), in coordination with other entities, such as: the National Health Service, Judicial- Legal System; Institute for Employment and Vocational Training. The shelter is currently open only to women and their children. Authorisation for residence is granted to foreign citizens who are or have been victims of trafficking in persons at the following conditions:

- a) It is necessary to prolong the victim's stay in the country during legal investigations and procedures;
- b) The victim is willing to collaborate with the authorities;
- c) The victim has broken all relations with the traffickers.

Authorisation of residence is valid for a period of one year and renewable for equal periods, if the previously mentioned conditions continue to be fulfilled or if the need for protection of the person persists. The trafficked person has access to official programs whose objective is to help recovery and re-integration into social life, including courses for improving professional skills. Foreign minors have access to the educational system under the same conditions as national citizens. All procedures will be undertaken to establish the identity and nationality of the unaccompanied minor, as well as to locate his/her family as quickly as possible, also guaranteeing his/her legal representation including, if necessary, in the area of criminal procedure. The Decree-Law no. 368/2007 of November 5 states that a residence permit may be granted to a victim of trafficking without the necessity for the previously mentioned requirements when the personal circumstances of the victim justify it, in particular with respect to a situation of vulnerability of the trafficked person, his/her family members or people with whom he/she has close relationship. The assistance available for trafficked persons in Portugal is still targeted mainly to women and children. The June of 2008 Cooperation Protocol between Ministries and NGO APF defines the adequate function of the national multidisciplinary team and regulates the different assistance services through the provisory accommodation centre (CAP). Although the CAP team works with trafficked men as well as women,



a proper structure and specific response for male victims still does not exist. Therefore support for men in practise is not ideal. In 2008 and 2009 all identified victims and presumed victims were offered secure accommodation, psychological and material assistance, access to emergency medical treatment, translation and interpretation services, when appropriate, counselling and information about their legal rights and the services available to them in a language that they can understand, assistance to enable their rights and interests to be presented and considered at appropriate stages of criminal proceedings against offenders; access to education for children. The Portuguese model foresees also the option of voluntary assisted return, in cooperation with countries of origin. The victims' stay at the CAP should not last for more than one year, although there might be exceptional situations that justify the extension of such period, like for example for safety reasons, or when there are no social conditions to ensure the victims autonomy, training and professional occupation. Access to justice The Portuguese legislation includes provisions on compensation for victims of the crime of human trafficking. In terms of protection measures for victims/witnesses, the Law No. 93/1999 of 14 July and the Decree-Law No. 190/2003 of 22 August regulate the implementation of measures for witness protection in criminal proceedings where "their life, physical or mental integrity, freedom or property of considerable high value are put in danger because of their contribution to the proof of the facts". The measures include the families of the victims and others close to them and in case of particularly vulnerable people (like minors) they are applied also when the effective situation of danger has not been assessed.. This law, also approved the statute that regulates the implementation of measures for witness protection in criminal proceedings in line with the international movement to recognize the rights of witness, enshrined in the Recommendation R (97) 13 Council of Europe.

Prevention

In the Portuguese Plan Against Trafficking of Human Beings the second intervention area is subdivided into three main sections: To Prevent, Raise Awareness and Train. Training activities were carried out within the above-mentioned Project CAIM and under the National Plan against trafficking in human beings targeting different categories of personnel. Information material on legislation relative to immigration have been prepared, which should be distributed to Portuguese embassies and consulates, including links that guide internet users to facts on trafficking in human beings and preventive information as well as contact points in the web pages of government entities, NGOs, security forces and services as well as immigrant associations working in this area. An awareness campaign was developed and posted mostly through the public transport system. Information leaflets have been produced about immigrant associations, NGOs and CLAI's. (Centros Local de Apoio ao Imigrante). Projects to support the development of programmes promoting zero tolerance towards gender-based violence and discrimination were carried out in schools Training on the assistance methodologies necessary for trafficking victims were carried out for judges and law enforcement agencies as well as the Labour Conditions Authority Associations of Entrepreneurs,



Labour Unions and Immigrant Associations. The training sessions were carried out with the support of NGO specialised personnel as trainers.

Monitoring and evaluation system

The procedures for monitoring and evaluation of the effectiveness and impact of anti trafficking measures in Portugal a national should be carried out by a national body that compiles data from different sources. The Centre on Human Trafficking (OTHS) of the Ministry of Interior has been established by the NAP. Its mandate is to produce, collect, process and disseminate information and knowledge about human trafficking and other forms of gender violence, including inputs of all the (non) governmental agencies involved in the fight against human trafficking. An independent commission also reports publicly on the implementation of policies and measures, evaluating their effectiveness. The National Rapporteur, relates, in fact, to entities with foreign counterparts and international level of human trafficking; has promoted and participated in the development of structures and networks nationally and internationally and is ensuring the final evaluation of the implementation of the Plan by an external entity. During 2008 and 2009, some evaluations of anti-trafficking measures were published by the Commission coordinating the Plan against Trafficking in Human Being, the Portuguese Observatory and the report of national security, including the data analysis from SEF relating to the new legislation and policy towards immigration.

