



FRA

# Thematic Study on Child Trafficking

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## Foreword

- [1]. This report was written by Alexandre Sousa Pinheiro (Senior Expert), Dinamene de Freitas (Expert) and Inês Marinho (Expert) over a three month period from May through July 2008.
- [2]. The first step the team took was to meet with the Coordinator of the *Projecto Cooperação, Acção, Investigação e Mundivisão* (CAIM Project) [the Cooperation, Action, Investigation and Global Vision Project] who supplied us with important general information on trafficking in human beings. The team attended a conference organised for the CAIM Project on the subject of recently created instruments for combating trafficking in general.
- [3]. The team researched and explored the relevant internet sites, and contact was established with the police, Non-Governmental Organisations (NGOs), the Ministry of Justice and the Ministry of Home Affairs.
- [4]. The data collected from the bodies above, however, contained very little substantial or applicable data.
- [5]. In terms of Portugal's legal framework relating to this study, our aim was to be as exhaustive as possible, taking into consideration not only domestic law but international and EU law as well.
- [6]. The team did not find any Portuguese case law specifically concerning child trafficking, although the Ministry of Justice provided us with some raw data about convictions in crimes related to trafficking (not necessarily child trafficking).

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## Executive Summary

- [7]. A significant finding of the study is that Portugal has ratified the most important conventions approved by international bodies. Despite this, this study has been severely limited by a very small or sometimes complete lack of studies, figures, statistics as well as other data related to trafficking in human beings. The study's focus on child trafficking makes it even more difficult to ascertain such data.
- [8]. Notwithstanding this, public bodies and NGOs are basically organised to combat the trafficking of women for prostitution and sexual exploitation, but not children per se.
- [9]. The Penal Code and recent legislation on asylum and international protection incorporates several articles about child trafficking.
- [10]. Although the principles of the law are very progressive, we do not have information about the functioning of the system in practice.
- [11]. The absence of case law on child trafficking makes the task of analysis very difficult.
- [12]. As this study does not include the collection of raw data, the cumulative effect with the above problems is that the scope, and therefore the length, of this study is limited.

## 1. General anti-child trafficking framework

- [13]. Various international conventions, agreements and protocols have been ratified by Portugal, forming the building blocks of the anti-child trafficking framework in Portugal.
- In 1991 Portugal ratified the 1950 Convention for the Suppression of the Trafficking in Persons and of the Exploitation of the Prostitution of Others. Portugal's ratification is found in Presidential Decree 48/91, and Resolution of the Parliament 31/91, 10.10.1991).<sup>1</sup> In 2001 Portugal ratified the Protocol to amend the Convention for the Suppression of the Traffic in Women and Children, via Presidential Decree 6/2001, and Resolution of the Parliament 5/2001, 27.01.2001.<sup>2</sup>
  - The Optional Protocol on the Sale of Children, Child Prostitution and Child Pornography (2000), was ratified by Portugal in 2003 via Presidential Decree and Resolution of the Parliament 16/2002, dated 5.03.2001.<sup>3</sup>
  - In addition, the United Nations Convention Against Transnational Organised Crime and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, especially Women and Children (2000) were ratified by Portugal via Presidential Decree 19/2004 and Resolution of the Parliament 32/2004 on 2.04.2004.<sup>4</sup>
  - ILO Convention Nr 182 on the worst forms of child labour (1999) was ratified by Portugal in 2000 via Presidential Decree 28/2000 and Resolution of the Parliament 47/2000.<sup>5</sup>
- [14]. European initiatives have also been ratified by Portugal. For example, this year on 14.01.2008 the Council of Europe's (CoE) Convention on Action against Trafficking in Human Beings was ratified by Portugal via Presidential Decree 9/2008 and Resolution of Parliament 1/2008.<sup>6</sup>
- [15]. In terms of Portugal's transposition of relevant Council Directives, it is also worth mentioning that Directive 2004/81/CE on residence permits issued to third country nationals who are victims of trafficking in human beings or who have been the victims of illegal

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<sup>1</sup> <http://www.dre.pt/pdf1sdip/1991/10/233a00/52565262.PDF> (03.07.2008).

<sup>2</sup> <http://www.dre.pt/pdf1sdip/2001/01/023A00/04180424.PDF> (04.07.2008).

<sup>3</sup> <http://www.dre.pt/pdf1sdip/2003/03/054A00/14921501.PDF> (04.07.2008).

<sup>4</sup> <http://www.dre.pt/pdf1sdip/2004/04/079A00/20802129.PDF> (04.07.2008).

<sup>5</sup> <http://www.dre.pt/pdf1sdip/2000/06/127A00/25362549.PDF> (04.07.2008).

<sup>6</sup> <http://www.dre.pt/pdf1sdip/2008/01/00900/0038900389.PDF> (07.07.2008).

immigration networks and cooperate with the competent authorities was transposed by Law 23/2007 (mainly articles 109 to 115).<sup>7</sup>

- [16]. Both the Council Framework Decision of 19.07.2002 on combating trafficking in human beings (202/629/JHA) and the Council Framework decision of 22.12.2003 on combating the sexual exploitation of children and child pornography (2004/68/JHA) have been implemented by the recent amendment to the Penal Code.<sup>8</sup>
- [17]. The last parts of Portugal's anti-child trafficking framework are found within the national laws.
- [18]. Firstly, according to article 160 of the Penal Code, trafficking in human beings (including child trafficking) is punishable by 3-10 years imprisonment. However if the trafficking is conducted as a professional operation with the clear intention of profiting financially, offenders can be sentenced to a maximum of 12 years imprisonment.
- [19]. The provision is worded in the following manner: 'Anyone who offers, delivers, lures, accepts, transports, gives accommodation to or receives people for the purposes of sexual exploitation, labour exploitation or for removal of organs:
- by means of violence, kidnapping or serious threats;
  - through deception or fraudulent practice;
  - through the abuse of authority resulting from dependency of a hierarchical, economic, labour or family relative relationship;
  - by taking advantage of the diminished psychological capacity or particularly vulnerable situation of the victim;
  - by obtaining the consent of the person in charge of the victim, shall be sentenced with a prison term of 3-10 years.'
- [20]. None of the conditions in the bulleted points above need to exist when the victim is a minor, but the same prison term applies.
- [21]. The phrase used in the Penal Code 'for the purposes of trafficking in human beings' is defined by article 160.4 in compliance with article 4 of CoE's Convention on Action against Trafficking in Human Beings (2005). There is no mention of trafficking for "illicit activities" or

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<sup>7</sup> <http://www.dre.pt/pdf1sdip/2007/07/12700/42904330.PDF> (07.07.2008).

<sup>8</sup> Portugal/Código Penal (23ª alteração) Lei n. 59/2007 (04.09.2007),: <http://www.dre.pt/pdf1sdip/2007/09/17000/0618106258.PDF> (08.07.2008).

“forced marriages” because the concepts of “exploitation of work” and “sexual exploitation” include those practices.

- [22]. Regarding trafficking for adoption, the Penal Code (article 160.4) establishes that it is a crime to offer, deliver, and request or receive a child and consent to his/her adoption against payment or other benefit. This crime is punishable by up to 1-5 years imprisonment.
- [23]. Whether the crime of trafficking in human beings occurs abroad or within Portugal is irrelevant: article 160.5 of the Penal Code applies to offenders regardless of where the trafficking originated and the penalty is the same. International rules of penal jurisdiction must be abided by.
- [24]. Furthermore, anyone who knowingly benefits from the services of a victim of trafficking in human beings or organs removed from such a victim can be sentenced to 1-5 years imprisonment (article 160.5 of the Penal Code).
- [25]. In line with article 20 of the CoE’s Convention on Action against Trafficking in Human Beings (2005), retaining, removing, concealing, damaging or destroying an identity or travel document of a trafficked person is punishable by up to 3 years imprisonment.
- [26]. Not just the general laws, but Portugal’s Constitution is also relevant to this study. According to the Portuguese Constitution (article 8.2),<sup>9</sup> all the approved or ratified conventions are automatically implemented by the Portuguese Courts, including international rulings. If international rulings were to be violated by internal legal or judicial measures, this would be deemed unconstitutional.
- [27]. In order to ensure the protection of children, the Constitution states that ‘children shall possess the right to protection by society and State’ (article 69.1). One of the consequences of this constitutional rule is that the principle of the “best interests of the child” is adopted in every aspect of children’s lives.
- [28]. No cases on child trafficking have been brought to trial to date.
- [29]. According to Law 23/2007, the most important criteria to apply to the case of issuing residence permits to children who are the victims of trafficking is the principle of the best interests of the child.<sup>10</sup> All procedures involved must take into account the child’s age and development (article 114.1).

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<sup>9</sup> <http://www.tribunalconstitucional.pt/te/conteudo/files/constituicaoingles.pdf> (14.07.2008).

<sup>10</sup> <http://www.dre.pt/pdf1sdip/2007/07/12700/42904330.PDF> (07.07.2008).



- [30]. The maximum reflection period is 60 days.
- [31]. The first National Plan against Trafficking in Human Beings covers the period 2007-2010.<sup>11</sup> The National Plan against Trafficking in Human Beings aspires to introduce an integrated approach to the prevention of this crime and to the support of victims.
- [32]. There is no policy of non-criminalisation implemented by Portugal, and moreover nothing in terms of prostitution. However, this is a non issue in Portugal because prostitution is not a crime; child victims of trafficking who engage in prostitution are not committing a crime. Victims of child-trafficking are never considered responsible for the crime of trafficking, however for other crimes, child victims of trafficking are responsible in the eyes of the law.
- [33]. Currently the national anti-trafficking task force is based on the Cooperation, Action, Investigation and Global Vision project. The other members of the task force are representatives of three Ministers (Presidency, Welfare, and Home Affairs), an NGO and a private institution for social welfare. The private institution for social welfare will contribute €41,151.35. The NGO will spend a total of €65,200.16. The Commission for Citizenship and Gender Equality (CIG) has a budget of €26,569.79 set aside for this project and the Ministry of Home Affairs has allocated €79,328.62 to the initiative. These amounts must be spent before this November.
- [34]. The budgets mentioned above refer exclusively to the CAIM Project and do not represent the entire amounts set aside by each Ministry for anti-trafficking efforts. However, comprehensive data regarding these total amounts is not available.
- [35]. It has not been possible to find out accurate information about the budget spent on the National Network for the Support and Protection of Victims of Trafficking, which includes nationwide focal points.
- [36]. The problems in identifying budgetary data become even greater when the issue is child trafficking. No specific references were found.
- [37]. An Observatory (research and monitoring centre) was created within the framework of CAIM with the purpose of collecting, analysing and disclosing data related to trafficking in human beings. Its main goal is to identify the ways in which Portugal is a country of transit, origin and/or destination of trafficking, and will be supplied with data from private and public institutions. As the purpose of the Observatory is to study the trafficking phenomenon, all related information is strictly

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<sup>11</sup><http://195.23.38.178/cidm/portal/bo/documentos/I%20National%20Action%20Plan%20Against%20Trafficking%20In%20Human%20Beings.pdf> (08.07.2008).

confidential. The Observatory also has the function of implementing a standardised guide relating to the recording of data. The Observatory is equipped with technically advanced systems for monitoring trafficking.

- [38]. Portugal has adopted a National Referral Mechanism. It is a systematic, formalised and standardised instrument for cooperation and referral. It covers all kinds trafficking, including although not specifically, child trafficking.
- [39]. As from this year all staff involved in the identification, care and protection of trafficking victims are given special training. As an example of training measures in the field of trafficking, the police are receiving training in order to participate in neighbourhood watch programmes. This makes it easier for police to gather information and present situations of trafficking.
- [40]. Another example of measures that could be taken in this area is to include trafficking as an academic subject to be studied at university.
- [41]. Specialised training for social and human science workers will be implemented to deal with trafficking (50 for each of the years 2008, 2009 and 2010) mainly in the areas of social and health services. The main purpose is to prepare these workers so they fully understand the complexities of trafficking and the people involved. These courses will also incorporate a legal component focusing on trafficking issues.
- [42]. The initial training course will take place from this September to November. A key deliverable of this initiative is for trainees to become future trainers.
- [43]. Other matters envisaged in the National Action Plan are to:
- provide training for judges and security forces in the areas of trafficking;
  - develop training for cultural mediators; and
  - create special training courses for public bodies and labour unions.

## 2. Prevention of child trafficking

- [44]. The prevention efforts and awareness-raising campaigns that were made in relation to trafficking do not specifically address child trafficking.
- [45]. CAIM, the pioneer project in the field of the trafficking of human beings, was designed to study the cases of female prostitution and sexual exploitation. As a result, the campaigns launched were limited to their intended purposes, *e.g.*, awareness-raising.
- [46]. According to NGOs and the National Rapporteur there have been no campaigns specifically related to child trafficking.
- [47]. In the last months, the awareness-raising campaigns that took place regarding human trafficking were devoted to one form of trafficking: trafficking women for sexual exploitation. The CAIM Project produced two small videos of 60 seconds each: entitled ‘Supermarket’ and ‘Telephone Conversation’, and exhibited at several movie theatres. Also, the CAIM Project has developed a small and very easy to read leaflet on trafficking in human beings, with information on where the victims may have recourse to assistance. This leaflet was translated into various languages spoken in countries where Portugal is considered a transit and/or destination country. It was also distributed to government agencies and NGOs that provide both public services and assistance. However, both the initiatives were silent regarding the specificities of child trafficking.
- [48]. Children in a vulnerable position are designated by law as children at risk, and are cared for in a shelter for their own protection and safety.<sup>12</sup> Still, according to the new asylum rules, unaccompanied minors who are asylum seekers are temporarily housed under special conditions according to international standards defined by UNICEF, the Red Cross International Committee, and the UNHCR (article 26).

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<sup>12</sup> Portugal/Law 147/99, (1.09.1999).

### 3. Appointment of legal guardian

- [49]. Portuguese Law stipulates that children who are victims of trafficking should be, where possible, represented by their parents or other legally appointed family members.<sup>13</sup> In cases where it is not possible to find any family members capable of representing the minor, this role should be assumed by the Public Prosecutor.
- [50]. While a family member may be appointed, it is generally the Public Prosecutor who represents the minor in practice. Portuguese law does not have a concept of a legal guardian. As explained in 49, the guardian is the family or the Public Prosecutor. It is very important to note that the Portuguese system is different from others, where legal guardians are accepted by law.

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<sup>13</sup> Portugal/147/99 (1.09.1999).

## 4. Coordination and cooperation

- [51]. The national efforts to combat trafficking in human beings make no distinction between adults or child trafficking victims. This situation is probably justified by the fact that there is not enough knowledge about trafficking in Portugal. This means that in the field of coordination and international cooperation there are neither coordination bodies nor cooperation agreements addressing child trafficking in particular.
- [52]. A National Network for the Support and Protections of Victims of Trafficking is in general being implemented. It is composed of decentralised focal points spread all over the country and includes: NGOs, the police forces, private welfare institutions and regional departments.
- [53]. The CAIM Project is the result of a broad cooperation agreement between state agencies, ministries and NGOs.<sup>14</sup> The main purpose of the project is to intervene in the area of trafficking in women for prostitution and sexual exploitation. Nevertheless, the work carried out in this regard can be used in all trafficking situations.
- [54]. As a result of this cooperation agreement, the first shelter designed for victims of trafficking was opened recently.
- [55]. Except where law enforcement is involved, all recording of data related to victims of trafficking guarantees that the names of the victims remain strictly confidential. If a victim's name is collected during an investigation, then the police may have the name in their files, however in all other registers the victim's name is not recorded.
- [56]. The *Comissão para a Cidadania e Igualdade de Género* (CIG) [Commission for Citizenship and Gender Equality], the *Serviço de Estrangeiros e Fronteiras* (SEF) [the Borders and Foreigners Office], and the *Alto Comissariado para a Imigração e Diálogo Intercultural* (ACIDI) [the High Commission for Immigration and Intercultural Dialogue] were recently involved in a transnational cooperation project that will last 24 months. The other partners are Italy, Spain and Brazil, and the main purpose is to develop Transnational Referral Mechanisms on the issue of trafficking in human beings, mainly women and children (TRM-EU). The concept for this project is included in the Thematic Programme of Cooperation with Third

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<sup>14</sup><http://www.aim.com.pt/main.php?id=ARE45a3b2961555b&mid=MNU45a500c29a384&sid=SUB45ba2cad4bb04&PHPSESSID=f1ae620c7fc38358181fc6f4ec3603ba> (18.07.08).

Countries in the Areas of Migration and Asylum as ‘Promoting Transnational Partnerships – Preventing and Responding to Trafficking in Human Beings From Brazil to EU Member States’.

- [57]. The project is coordinated by the International Centre for Migration Policy Development (ICMPD) and the countries involved are determined in accordance with a geographic criterion, based on the concept of the ‘migration route’.
- [58]. While aiming to develop a better and uniform system for protecting and supporting trafficking victims, this project will also guarantee effective cooperation in cases of trafficking between the participant countries. It will rely on the active participation of NGOs and state agencies working on prevention, investigation, prosecution and support for victims of trafficking. The project will increase assistance mechanisms and enable the sharing of good practices. Furthermore, it will develop adequate training courses for the national police force.
- [59]. Portugal is also developing a bilateral partnership with Angola through the mediation of the International Organization for Migration’s (IOM) Portuguese mission. This partnership involves training courses to be held in Angola, which will be intended mainly for government officials working for the Ministry of the Interior.
- [60]. Two of the main issues of this partnership are: a) to treat legal and international data related to trafficking phenomena with a view to defining an adequate national framework; and b) to provide assistance and protection to victims of trafficking. This project has already started.

## 5. Care and protection

- [61]. Law 23/2007 transposing Directive 2004/81/CE establishes that trafficking victims have the right to a reflection period to 30-60 days.
- [62]. The aim of this period is to ensure that the victim can choose freely whether to remain in the country, without being influenced by the traffickers when making such a decision and while being able to enjoy certain rights. Despite these certain rights the victim is, however, not entitled to a residence permit at this point.
- [63]. The reflection period starts independently of any legal or police action that may be adopted, provided that the child is identified as a trafficking victim by the police or by the Coordinator of the CAIM Project. During the reflection period he/she is afforded all necessary protection.
- [64]. During this period of reflection, victims without financial resources benefit from some financial assistance as well as medical care (including psychological assistance).
- [65]. Acting in the best interest of the child is the overarching principle for applying these rules. Naturally, this takes into account the child's age and development.
- [66]. One consequence of this overarching principle is that the reflection period may be extended to 60 days or more.
- [67]. The authorities should make every effort to establish the child's age and nationality and to find his/her family. There is no set procedure for tracing the family of trafficked children. The standard channels for finding missing people are used.
- [68]. After the reflection period, the residence permit may be issued to the trafficking victim irrespective of police cooperation. The only condition is that the victim no longer has any contact whatsoever with the suspected trafficker. If the need for protection still exists, renewal is automatic, regardless of whether the victim cooperates or not with the police.

- [69]. According to Decree-Law 368/2007,<sup>15</sup> this is in cases where there is a risk that traffickers will threaten the victim, their relatives or any person close to them.
- [70]. When the victim of trafficking is a child, he/she has the same rights during the reflection period. Furthermore, this child will have access to the Portuguese education system, as if a Portuguese national.
- [71]. This legal framework came into force last year; however, there is not yet any data available. Since last year no children have been identified as trafficking victims.
- [72]. There are no official figures related to these children entering the educational system or receiving health and psychological care. The same lack of information applies for legal assistance.
- [73]. There is no special shelter for these children and only one shelter for victims of trafficking in general.<sup>16</sup> Since the vast majority of identified victims are women, this one shelter was designed for them and their underage children. In summary, no shelters have been built with the express purpose of receiving trafficked and unaccompanied children
- [74]. If a trafficked child needs to be sheltered, he/she will be cared for in centres for children at risk. The child cannot leave the centre for an unknown destination. The child can leave the shelter if the destination is known and is one permitted by the authorities. The centre has no punitive or “detention” aims whatsoever.
- [75]. The decision to keep children in the country or return them is based on the principle of the child’s best interest and must take into account the reflection period stipulated by law.
- [76]. The hotline 116 000<sup>17</sup> has been created to report situations of missing children, in particular cases related to trafficking. The hotline came into operation on 25.07.2008, and is available Monday to Friday, 9am to 7pm, though in the near future it will be open 24 hours a day, 7 days a week. This line is operated by an NGO called *Instituto de Apoio à Criança* (IAC) [the Institute for Children Support].
- [77]. There are other hotlines that can also be used for reporting cases of trafficking. *SOS Criança* (a children’s help line) [*Children’s SOS*] has been specifically designed to attend to every kind of risk situation

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<sup>15</sup> <http://www.dre.pt/pdf1sdip/2007/11/21200/0800808008.PDF> (16.07.2008).

<sup>16</sup> <http://www.apf.pt/?mnu=000&area=000&tipo=destaques&id=CNT4887093fde55&PHPSSESI D=472b0b7d92f92d3bc1bb5f9f826f4502> (18.07.2008).

<sup>17</sup> <http://videos.sapo.pt/VTavzMMvQLJmiTuA2bCK> (25.07.2008).



related to children.<sup>18</sup> Such calls can cover cases where children have been abandoned and for reporting missing children, children at risk, children in forced labour and children forced to beg.

- [78]. Another hotline is provided by *Alto Comissariado para a Imigração e Diálogo Intercultural* (ACIDI) [the High Commission for Immigration and Intercultural Dialogue].<sup>19</sup> This hotline is called *SOS Imigrante* [*Immigrant's SOS*] and is dedicated to issues related to migration and labour exploitation. The hotline can, however, also be used to report cases of trafficking in human beings in general or children in particular. This hotline is available in Portuguese, English, French, Spanish, Russian, Romanian, and Cape Verdean Creole.<sup>20</sup>
- [79]. According to the National Coordinator for the National Action Plan Against Trafficking in Human Beings, the operators in ACIDI have received specialised training to identify and to give counselling to trafficking victims.

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<sup>18</sup> <http://www.iacrianca.pt/> (18.07.2008).

<sup>19</sup> <http://www.acime.gov.pt/> (18.07.2008).

<sup>20</sup> <http://www.acime.gov.pt/modules.php?name=News&file=article&sid=1317>  
(18.07.2008).

## 6. Best interests determination and durable solutions, including social inclusion/return

- [80]. Law 27/2008 on asylum and subsidiary protection implements Directives 2004/81/EC and 2005/85/EC on minimum standards to be adopted in member states for granting and withdrawing refugee status.<sup>21</sup> Law 27/2008 also consolidates existing legislation, in particular the law that implemented Directive 2003/09/EC.
- [81]. One of the key aspects of this new legal framework is to reinforce the protection of those who are particularly vulnerable, especially minors and unaccompanied minors (article 2.1/r).
- [82]. Children who are victims of trafficking are not referred to in this law specifically. However, the general legal framework covers situations of trafficking because it applies in cases where people are persecuted or in grave danger of being persecuted (article 3.1). The law determines that the following acts of persecution may constitute grounds for the granting of asylum: grave violations of human rights; acts of physical or psychological violence (including sexual violence) or acts committed specifically against minors.
- [83]. As a result of this, asylum may be granted to children who are victims of trafficking.
- [84]. In cases involving asylum granted for humanitarian reasons, either to foreigners or stateless individuals, residence is also possible.
- [85]. With respect to the participation of children in the decision-making/obligatory hearing in all relevant legal procedures, Portuguese law does not have precise rules. So, the general procedure which involves a hearing component is applicable to trafficked children. The age of the children must be taken into consideration.
- [86]. The grounds that count towards a grant of residence are:
- systematic violation of human rights;
  - risk of suffering a grave offence.
- [87]. The situations described above are applicable to children who are victims of trafficking.

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<sup>21</sup> <http://www.dre.pt/pdf1sdip/2008/06/12400/0400304018.PDF> (25.07.2008).

- [88]. The new Law (article 48) guarantees that in cases of request for asylum or subsidiary protection, information will be given to the person in a language that he/she understands. If necessary, an interpreter will be provided. The [The United Nations Refugee Agency] (UNHCR) and the Portuguese Committee for Refugees may afford legal counselling.
- [89]. When a minor is involved, article 78 provides that the paramount principle to be adopted is the best interests of the child.
- [90]. An unaccompanied minor can also be represented by an entity, NGO or any other form of representation constituted by law.

## 7. Prosecution

- [91]. The criminal and criminal procedure law have been subject to substantial reform, where aspects concerning children have been addressed. It is important to note the following in the Penal Procedure Code:
- the obligation of a defence lawyer to be present in every part of the procedure when a person under 21 years of age is the *arguido* [the person that is being investigated after a crime is committed] (a specific status of the Portuguese legislation) (article 64.1/c);
  - minors aged 16 years or under are exempt from taking an oath and declaring that what they say is true and on their honour (article 91.6/a);
  - article 349 sets forth a specific procedure for questioning minors aged 16 or under who are witness to a crime. In these cases, the questioning is done solely by the presiding judge;
  - in order to protect minors aged 16 years and under from intimidation when giving a statement in court, the presence of the [*arguido*] can be dispensed with (article 352.1/b).
- [92]. Children who are victims of trafficking have the right of access to justice and legal assistance in general terms. This means that their rights should be protected regardless of financial means or social status (Law 34/2004). Even if the child comes from a country outside the EU and without a reciprocity agreement with Portugal, the above assurance of rights still applied.
- [93]. According to Law 23/2007, temporary residence may be granted for humanitarian reasons. It seems to be possible to apply this set of rules to children who are victims of trafficking.
- [94]. As regards to asylum and subsidiary protection, it should be noted that article 49 of Law 27/2008 includes the right to legal assistance. None of the aspects described specifically addresses children. Nevertheless, they are undoubtedly applicable to children who are victims of trafficking.
- [95]. Decree-Law 42/91, concerning the right to compensation in cases of violent crime, is also applicable to children who are victims of violence.

## 8. Miscellaneous

- [96]. The Minister of Justice appointed a senior officer from the *Polícia Judiciária* (PJ) [the Investigation Police] to implement a child alert system.
- [97]. A right wing party, the *Partido Popular* (PP) [Popular Party], also put a recommendation before Parliament to adopt a national alert system for missing children. Even though the link between missing children and child abuse or trafficking is not absolute, the PP opine that such situations are closely connected and must be dealt with together. They say there is urgent need for this system in terms of Portugal's geographical position (because there is a lot of illegal immigration) and also due to the fact that it is part of the Schengen Agreement."

## 9. Good practice

- [98]. Trafficking in human beings can be reported to the police by electronic means (Portaria n. 1593/2007).
- [99]. The campaign called “*NÃO ESTÁS À VENDA*” [“YOU ARE NOT FOR SALE”] is organised in Portugal by the Ministry of Home Affairs and by the *Serviço de Estrangeiros e Fronteiras* (SEF) [Office for Foreigners and Borders]. It aims to combat trafficking in human beings targeting especially students, health officers and social workers in general.
- [100]. The recording of information is used for analysis of victims. Only NGOs and the police collect information relating to victims, which as earlier stated does not include the victim’s name when that collecting group is an NGO. The kind of data collected is listed in Annex II below.
- [101]. Before recording any information, the first step is to verify that suspects and victims of trafficking are indeed related to the trafficking. Once either the police or the NGO are convinced that they are dealing with a victim of trafficking, their beliefs are communicated to the hotline *SOS – imigrante*, or to the focal points of the police authorities.
- [102]. Once data is collected, it is transmitted to the Observatory for trafficking which was discussed in paragraph 41.

## Annex 1 - Tables and Statistics

	2000	2001	2002	2003	2004	2005	2006	2007
Number of children being granted temporary stay on grounds of trafficking	?	?	?	?	?	?	?	?
Number of trafficked children receiving full health care services, including psychosocial care and rehabilitation (e.g. not just emergency treatment)	?	?	?	?	?	?	?	?
Number of trafficked children receiving education/training, in particular secondary education and vocational training	?	?	?	?	?	?	?	?
Number of trafficked children receiving legal assistance (e.g. for claiming compensation)	?	?	?	?	?	?	?	?
Number of final convictions based on child trafficking cases, per year	?	?	?	10	?	?	?	?

Total of amount of compensation paid to trafficked children, per year	?	?	?	?	?	?	?	?
Average of amounts of compensation paid to trafficked children, per year	?	?	?	?	?	?	?	?
Range of amount of compensation paid to trafficked children, per year	?	?	?	?	?	?	?	?

[103]. In Portugal there are very few figures about child trafficking. The Ministry of Justice has information about the crime of trafficking (for 2005 and 2006), but the information does not specify when child trafficking is involved.

[104]. The Office for Foreigners and Borders (SEF) does not have figures relevant to this study.



## Annex II

- [105]. The information collected is as follows:
- the name of the registering organization;
  - the date of completion of form;
  - the source of information;
  - the place where the victim can be located;
  - the brief description of the area; and
  - whether the victim is alone or with the suspected victims of trafficking.
- [106]. The personal data collected of suspected victims is as follows:
- sex;
  - age;
  - marital status;
  - date of birth;
  - nationality;
  - knowledge of the local language; and
  - whether the victim has dependents (parents, children, others).
- [107]. Data related to where the person has been and his/her intended destination. In this part of the registers there are also questions about the means of transportation used by the victim within Portugal.
- [108]. Techniques used for luring the victim:
- by personal contact to somebody known to the victim;
  - relatives;
  - friends;
  - by phone;
  - by Internet; and
  - through an employment agency.
- [109]. Data on traffickers:
- nationality;

- age; and
- relationship to victim (friend, close friend, relative, stranger).

[110]. Data relating to forms of coercion:

- direct threats;
- indirect threats (for example, to the victim's family);
- continuous surveillance;
- physical and sexual aggression;