

**Resolution adopted by the UN General Assembly on
“Violence against women migrant workers”**

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Measures adopted by Portugal towards implementation (Ministry of Justice)

Given the area of competence of the Ministry of Justice, the information provided bellows regards measures adopted, which indirectly contribute for the implementation of pars. 11, 14, 22, 27, 28, 30 and 32 of the Resolution, or information relevant for that effect.

- General information:

In 2018, the Council of Ministers adopted a National Strategy for Equality and Non-Discrimination 2018-2030 (*Portugal + Igual*), approved by the Resolution no. 61/2018, 21st May. This Strategy is temporally and substantially aligned with the 2030 Agenda, in particular SDG 5.

The Strategy emphasises the multidimensional nature of disadvantage stemming from the intersection of various discrimination factors, such as sex with racial and ethnic origin and nationality, - perspective which is central in the definition of measures to address such disadvantages. It is one of the purposes of the Strategy to recognize, deepen and prioritize, in all areas, interventions directed at addressing intersectional disadvantages, such as those affecting migrant women and refugee. This also implies coordination with other national strategies, plans and programs, such as the Strategic Plan for Migrations.

The Strategy comprises an Action Plan for the Prevention and Combat Violence against Women and Domestic Violence. This Plan is directed at the elimination of social tolerance regarding the several manifestations of violence against women and at promoting a culture of non-discrimination, supporting and protecting victims, evaluating and improving public policies in this context, among others.

- Par. 11:

In 2016, a Retrospective Homicide Review Team on Domestic Violence (EARHVD) was constituted with the purpose of analysing cases of homicide in the context of domestic violence and drawing conclusions therefrom. The recommendations resulting from the team analysis are systematized according to different areas: health, internal administration, justice, social security and gender equality. The reports are then sent to the members of the government responsible for these areas and are made publicly available through the following link: <https://earhvd.sg.mai.gov.pt/Pages/default.aspx>.

In reaction to the significant increase of cases of homicide of women in the context of domestic violence which has occurred this year, the Government created a Multidisciplinary Technical Commission in charge of presenting concrete measures to improve prevention and combat to domestic violence, in particular, the critical protection of victims (Resolution of the Council of Ministers no. 52/2019, 6 March).

Regarding access to justice, Law no. 34/2004, of 29 July, regulates the system of access to justice and to the courts (Law on Access to Justice). The objective of this system is to ensure that everyone, regardless of social, cultural or economic factors, knows and is able to exercise their rights, as well as defend them. For this effect, mechanisms to provide legal information and legal protection are available, including both legal consultation and legal aid.

The system is applicable nationwide. National and EU citizens, as well as stateless people and third-country nationals with a valid residence permit in an EU country or provided that this right is recognized, by those countries, to Portuguese citizens in conditions of reciprocity, may be entitled to legal protection provided they prove to be in a situation of financial hardship. A recently approved amendment significantly extended the universe of possible beneficiaries of legal aid.

Moreover, victims of domestic violence, female genital mutilation, human trafficking, sexual coercion and rape, are exempted of payment of court fees.

[Regarding interpretation and consular assistance, see answer to par. 32 below]

- Par. 14:

The crime of trafficking in human beings (THB) for the purpose of any form of exploitation, including sexual exploitation, labour exploitation, begging, slavery or practices similar to slavery, removal of organs or the exploitation of other criminal activities is punished by law. If the person

trafficked is a minor, the purpose may also include his/her adoption and increased penalties apply. The victim's consent is irrelevant for the effect of determining the unlawfulness of the conduct. THB is a public crime qualified as a crime of priority prevention and investigation. The Office of the Prosecutor General is particularly attentive to cases of THB involving child victims connected with the new phenomena of international migration or associated with organ extraction and use (as established in internal directive 1/2017).

Resolution of the Council of Ministers 80/2018, 19th June, approved the IV Action Plan for Preventing and Combating Trafficking in Human Beings (PNPCTSH) – 2018 -2021, designed to reinforce knowledge on the issue of trafficking in human beings, ensure victims access to their rights, improve and qualify the authorities' intervention, and promote the fight against networks of organized crime, namely by dismantling the business model and disassembling the trafficking chain. Article 185-A (3) of Law 23/2007, amended by Law 29/2012, punishes with a sentence of imprisonment of up to two years or a fine up to 480 days anyone who uses the work of a minor foreign citizen, in an irregular situation. Moreover, foreign children and young people placed in a State institution or equivalent who do not hold a valid residence title are deemed to be in a situation of danger and are protected accordingly. For these children, special conditions to grant residence permits and naturalization apply.

Regarding sexual exploitation and sexual offences, it should be noted that, in 2015, the Criminal Code was amended to specifically foresee the crime of female genital mutilation, persecution and forced marriage; on the other hand, the crimes of rape, sexual coercion and sexual harassment, were modified to ensure compliance with the provisions of the Convention of Istanbul.

Increased penalties apply in cases of sexual abuse of children, incitement to prostitution of children and child pornography. Child grooming for sexual purposes is also punished under the Criminal Code.

- par. 22

In this regard, it is worth noting that trafficking in persons is considered a crime of priority prevention.

The IV PNPCTSH (2018-2021) includes measures aiming at raising awareness on THB, ensuring that victims have access to their rights and promoting the fight against networks of organised crime, and strengthening intervention through the implementation of guidelines and protocols.

The Portuguese Criminal Police collaborates actively with other criminal police organisations in preventing and investigating THB and cooperates with multidisciplinary teams to identify possible victims.

- par. 27:

[Regarding access to justice, see answer to par. 11 above]

- par. 28:

Law no. 130/2015, of 4 September, approved the Statute of the Victim, laying down a package of applicable rights and duties, thus improving the legal framework for victim protection. This law amended the Code of Criminal Procedural, introducing a new article 67-A which defines “victim” as a “natural person who has suffered damage, including an attack on his/her physical or mental integrity, an emotional or moral damage, or property damage, directly caused by an act or omission, in connection with the commission of an offence” as well as the relatives of a person whose death was directly caused by a crime and who have suffered damage as a result of that death.

Article 67-A of the Code of Criminal Procedural also defines “especially vulnerable victim” as a victim whose particular frailty stems, namely, from his/her age, health state, or disability, or from the fact that the type, level and duration of the victimization, resulted in serious consequences for the psychological balance or social integration of the victim. Victims of violent crimes or especially violent crimes (which include trafficking in human beings and sexual violence) are always considered especially vulnerable victims.

The Statute of the Victim grants a wide set of rights to victims of crime. It expressly consecrates that the victim shall be given all the information adequate to the protection of his/her rights (articles 8, 11 and 12 of the Statute). In particular, the victim is ensured the right to consult the file of the proceedings and obtain copy thereof and to be informed of the status of the investigation and proceedings, including the final decision. Victims may also be notified, if they wish so, of all the relevant decisions issued in the context of the criminal proceedings. Victims may also be made aware of the main decisions regarding the defendant, especially if the defendant is particularly dangerous, namely the application of coercive measures and also, without undue delays, of the release or escape of the defendant/convicted person.

Moreover, all information delivered to victims shall be provided in a manner and language that the victim understands.

Having in view their voluntary involvement in the proceedings, victims are granted legal consultation and, if necessary, free legal aid (article 13), as well as the possibility for reimbursement of expenses incurred in, in connection with their intervention in the criminal proceedings (article 14).

Pursuant to article 15, victims are ensured an adequate level of protection to ensure their safety and safeguard their privacy. Measures undertaken in this regard may also include the victim's relatives.

Article 17 sets out the general conditions to prevent secondary victimization, establishing that the victim has the right to be heard in an informal and reserved environment and free from pressure. The victim shall only be questioned or subject to medical examinations if this is strictly necessary to the investigation and shall occur without undue delays.

Article 21 and ff. the Statute establish special measures intended to protect especially vulnerable victims from secondary victimization or the suffering of further harm, namely measures to ensure that the victim may be heard in the courtroom without being present, namely, through the use of appropriate communication technology or excluding access of the public to the hearing. Article 25, in particular, provides for the temporary placement of these victims in shelters. With regard to the relation with the media, article 27 imposes that media do not divulge any information allowing for the identification of especially vulnerable victims; divulging such information constitutes a crime of disobedience.

Victims have access to support services. Presently, the polices have support offices to receive victims and provide all relevant information and assistance, namely directing the victims to NGO's specialized in the matter. Such services are also being implemented in selected facilities of the Public Prosecution.

- par. 30:

The Centre for Judicial Studies provides training on human rights to judges and public prosecutors on, *inter alia*, trafficking in human beings, domestic and gender violence, and female genital mutilation. Training also includes sessions on considering cases in a gender perspective.

Training on human rights is a priority for security forces and services. Prison guards training include sessions on human rights, multiculturalism, interpersonal and intercommunication techniques, as well as control and restraint techniques.

- par. 32:

In case a foreign person is arrested, the right to contact consular officials of the State of nationality is always ensured. Suspects of an offence who are detained are granted all the rights foreseen in the Code of Criminal Procedure, namely the right to contact a person of his/her trust, to contact a lawyer and, in the case of a foreigner, the consular authorities of the State of origin. If the detained person is given the status of defendant (*arguido*) by the law enforcement authority – which he/she may also voluntarily request – he/she will enjoy the rights granted by article 61 and others of the CCP, namely, among others, the right to interpretation in a language that he/she understands.

The right of foreign defendants to be assisted, without additional costs, by a suitable interpreter in any act of the procedure is ensured in both courts and police facilities. The Ministry of Justice is working on the creation of the professional status for sworn interpreters and translators and on the creation of a centralized pool of interpreters and translators.