**Portuguese Response to the Questionnaire on Deprivation of Liberty of Women and Girls**

**I. Justice system**

According to data from the Directorate-General of Justice Policy (DGPJ), the main category of crimes for which women are detained in Portugal is ‘crimes associated with trafficking in narcotics’, followed by ‘patrimonial crimes’ (theft or scam) and ‘crimes against persons’ (homicide or physical offense).

There are neither women nor men detained for crimes associated with right to opinion and/or defense of civil rights in Portugal.

A disproportionate number of women detained in Portugal are foreigners: they make up 16,6% of the total of women detained, while the share of foreign women in the resident population in Portugal stands at 3,9%.

Good practices include:

* Custodial sentences are carried out in accordance with the recommendations of the Recommendation Rec(2006)2 of the Committee of Ministers to member states on the European Prison Rules (Council of Europe) and the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).
* In line with the overall principle of equality in the national Constitution, justice services ensure no gender differentiation is made with regard to legislation, application of programs or access to education and work. The only differentiation pertains to the placement of detainees. There are currently three prison establishments for women in Portugal, plus women’s sections in four male prison establishments.

The number of women detainees has remained stable in the last years. They are currently 853, the same exact number as in 2013. In the meantime, this figure has varied only between 841 (the lowest value, in 2014) and 869 (the highest, in 2016).

**II. Other institutions**

Two other cases of institutionalization should be considered: *a)* Minors aged between 12 and 16 years who committed an act qualified as crime, and *b)* Victims of trafficking in human beings.

a) Minors aged between 12 and 16 years who committed an act qualified as crime may be placed in an Educational Centre (*Centro Educativo*) under State’s custody. This is the most extreme measure within a variety of measures that can be applied by the court for the purposes of education and social integration. Criminal procedures apply only to persons aged 16 or older.

According to the latest report by the commission supervising the operation of Educational Centers (*Comissão de Fiscalização e Acompanhamento de Centros Educativos*), there was a total of 16 girls in Educational Centres by April 2017. In the same report, this commission concluded that the model of intervention applied to girls should be revised and reformulated with contributions from various fields of expertise (juvenile justice, psychology, sociology, pedagogics) to better address specific needs of girls and correct gender inequalities in current practices, apparent for example in the evidence that girls have smaller spaces of outdoors activities as well as less equipment and less alternatives as to activities; less careful and adequate clothing; and less options as to opportunities of professional and technological training. The reasons identified for this differentiation pertains to girls in Educational Centres being in much lesser number than boys and current practices therefore following a model of intervention designed with boys as the main reference.

Two measures are currently being implemented to tackle this problem, both integrated in the National Strategy for Equality and Non-Discrimination approved by the Government in March 2018:

* Elaboration of a model of intervention targeting girls in Educational Centres, to be designed before 31 January 2019 and launched as a pilot test in two Educational Centres before 31 December 2019. This measure is jointly undertaken by the Directorate-General of Justice Policy (under the Ministry of Justice) and the Commission for Citizenship and Gender Equality (under the Secretary of State for Citizenship and Equality), in partnership with the commission supervising the operation of Educational Centres.
* A project for the promotion of non-violent masculinities in Educational Centres and schools will be launched until 31 December 2018. The goal of this project is to promote programs and mechanisms to better prevent violence and better support children and young persons in violent contexts. It is undertaken by the Commission for Citizenship and Gender Equality and it shall involve at least 30 young persons (boys or girls) in Educational Centres and 100 young persons (boys or girls) in schools before 31 December 2019.

b) In what concerns the crime of Trafficking in Persons and also related to care and protection, Portugal has a system of Shelters and Protecting Centres, framed within the National Referral Mechanism. They shelter victims regardless of their nationality, age, religion, ethnicity, sexual orientation, disability, marital status, political orientation or socio-economic status.

Presently there are four shelters for victims of trafficking (VoT):

1) One for men VoT run by the non-governmental organisation “Saúde em Português” (opened in 2013);

2) Two for women VoT and their children – one run by the non-governmental organisation APF (in fact the first Shelter and Protection Centre created in 2008 as an outcome of the first national project on trafficking in persons focused on women victims of trafficking for sexual exploitation, but afterwards open to victims of all types of exploitation); and the other one run by the Portuguese Association for Victims Support (opened in 2014). Although these two shelters are not a long-term response to the sheltering of children, in some specific situations (vulnerability or security issues) and through a court measure they ensure temporary sheltering. Furthermore, they receive the children of the women victims. As long as a minor is living in the Shelter, he or she has the same rights established for the women (health, psychological, judicial, public school).

3) Recently open (2018), one for children VoT (either girls or boys) run by the non-governmental organisation AKTO – Human Rights and Democracy.

All shelters are funded by the Portuguese Government.

All shelters have a multidisciplinary team that provides support in different areas and needs of the victims. All structures provide sheltering, food, protection and stabilization of the victims, supporting them through psychological, medical, judicial, translation (on the telephone or in presence) and social aid. In collaboration with different bodies, both governmental and nongovernmental, the victims are forwarded to different structures that provide educational, health, economical, psychological and judicial support in order to support their life project built within the victim personal characteristics, needs and manifest will.

Therefore, it has been streamlined a network of partnerships, both formal and informal, with different institutions, who provide healthcare, literacy teaching, vocational training, cultural experiences, community inclusion and work experiences.

If the VoT are adults, before being ‘institutionalized’ they are informed on the operating rules of the Shelters as these are confidential structures and hence connected to security and safety procedures in order to protect victims as well as the professionals.

Consequently, all shelters after explaining and responding to all doubts obtain a written consent from the VoT. This stage is the same to all victims. The difference, but also with the express consent of the victim, is on differentiated risk assessments done to each victim’s. The risk assessment is communicated by the Law Enforcement Agency in charge with the criminal investigation and/or conducted by the Shelters professionals. As such, and additionally to the shelter generic rules, the victim has also to consent to the implications resulted from the assessment that can be restrict access to going out, restrict access to the mobile phone, amongst others.

All victims are free to terminate the sheltering. In situations that after leaving they want to return, for security and safety reasons they are forwarded to other structures. This rule is also presented in the first stage of sheltering.

If the VoT is a minor, the Portuguese laws provide for a protection regime for children and young people at risk (Law No. 147/99 of 1 September 1999 – Law on the Promotion and Protection of Children and Young People at Risk – with last amendment by Law No. 26/2018 of 5 July). This Law lays down provisions about situations where a child is deemed to be at risk, from which illustrative cases are listed below:

* if she/he has been abandoned or lives unaccompanied;
* if she/he is subject to physical or mental ill-treatment or is a victim of sexual abuse;
* if she/he is forced to captivity or to labour that is either excessive or inadequate in terms of age, dignity and personal circumstances or detrimental to his/her upbringing or personality;
* if she/he is subject to conducts seriously affecting his/her safety and emotional balance.

Since a child who has been trafficked or illegally transferred from the country where she/he usually resided falls within the at-risk category, she/he benefits from protection measures provided for by the law. The court further determines which measure is more adequate to avert the danger in which the concerned children and young people find themselves, thus providing the conditions for the protection and promotion of their safety, health, education, well-being and full development and ensuring the physical and mental recovery of children and young people victims of any form of exploitation or abuse.

The awareness of a child trafficking situation without immediate or foreseeable family reaction thereto causes the launching of a care and protection process focused on that child.

When considering the particular nature of a specific at-risk situation, the proceedings are launched by the submission of a request by the Public Prosecution Service – the entity entrusted with the protection of the interests of the child or of the young person – to the Family and Minors Court.

When an initial communication is received by a Commission for the Protection of Children and Young People at Danger – should it be obvious that parents will not consent on an extrajudicial protective measure – the said Commission is bound to report the case to the Public Prosecutor at the Family and Minors Court, who shall ask the Judge to open the competent proceedings and order the enforcement of the appropriate protective measures.

These are two-folded urgent proceedings: (i) firstly, there is the evidence stage, during which different forms of evidence are sought (including the compulsory hearing – where feasible – of the parents and/or representatives, as well as the hearing of the child or young person should she/he be able and mature enough to be heard and express his/her opinion on the matter, as well as other evidence such as documents and/or expertise), followed by the drawing up of a social report (in the case of a removed child the report shall contain data on the social and family environment at the country of origin); (ii) the decision-making stage followed by the imposition of a protective measure.

However, a provisional measure shall be enforced in case of emergency or while the child’s situation diagnosis and the definition of his/her subsequent referral are being established.

A child victim of trafficking will be institutionalized most probably if no reliable relative able to shelter her/his can be traced.

The protective reaction, i.e. the institutional foster is ensured by reception centers or child and youth houses (articles 49 to 51 of Law No. 147/99 of 1 September 1999). The child or young person is placed under the care of an entity that provides permanent reception equipment and premises as well as a technical team capable of fulfilling the needs of the child or young person and of providing adequate education, well-being and full development regardless of its public, social or private nature. Inspection and supervision of these institutions are entrusted to the Social Security Institute, which further indicates the institution where shelter is to be given upon the judge’s request.

Any measure applied within the promotion and protection process is subject to a periodical judicial revision (every six months at least) conducted by the Family and Minors Court, which then decides upon its maintenance or modification.

The duty to articulate the protective intervention with the competent authorities of the child’s country of origin, with a view to corresponding to the interests of the child (which may lead to the protective intervention being made in the country where the child habitually resides), derives from both the need to take the best interests of the child into consideration and the provisions of the 1996 Hague Convention on Parental Responsibility and Measures for the Protection of Children.

The protective intervention is a transitional process by nature in the sense that it is expected to last only while danger persists. However, it is followed by increasingly lasting civil protective orders, among which guardianship (article 1921 ff. of the Civil Code), surrender to a third person or institution (article 1918 of the Civil Code), or adoption (article 1974 ff. of the Civil Code).

During institutional fostering it is incumbent on the Director for the institution to represent the child, in particular in matters of education, health, specific needs imposed by the situation itself. A special trustee may also be appointed by the Family and Minors Court with the purpose of representing the child in any proceedings. As a rule, this appointment is requested by the Public Prosecution Service, though it may be requested by the person entrusted with the child’s guardianship. Finally, consideration must be paid to the possible appointment of a trustee entrusted with the child’s overall/extended representation, in particular at acts where the child is deemed to intervene – including at criminal procedure level.

With a view to attaining an articulated promotion of the children’s interests defense, the Prosecutor General’s Office has issued Directives for Public Prosecutors establishing that, whenever criminal proceedings are instituted, the prosecutors on duty in the criminal and children and young people protection fields should work together (Circular Letter No. 3/2006). The Prosecutor General’s Office and the National Commission for the Protection of Children and Young People at Risk issued a Joint Directive with a view to facilitating the combined interventions and improving communication between the respective services.

The Criminal Procedure Code sets forth some rules aimed at protecting the identity of the child victims of trafficking, as follows: the procedural acts shall exclude the publicity rule; disclosure of the identity of victims by mass media is interdicted, and failure to comply therewith shall correspond to a criminal offence of disobedience; the children’s hearing shall be made only by the judge under the form of statement for future use; if certain circumstances apply, children’s hearing may be made in the presence of staff duly trained to accompany them – see article 87(3), 88(c), 271 of the Criminal Procedure Code.

Granting of a residence permit is entrusted to the Director of the Immigration and Borders Service (*Serviço de Estrangeiros e Fronteiras*) and the child’s representation must be secured by a natural person or the director of a moral person to whom the child has been entrusted. Nonetheless, no administrative procedure will necessarily take place for purposes of ensuring residence to a child within the Portuguese territory while a promotion and protection proceedings is being conducted.

All the above situations were taken into account and developed in the training provided to the forces and security services – Project “Law Enforcement Agencies – Common look on children”, aiming at:

* The development of ethical, relational, technical, social, organizational and methodological skills to an optimized intervention in the matters of detection and diagnose of endangered children, or children facing regulation/modification/non fulfilment of parental responsibilities, and/or young people facing trouble with the law;
* Providing the trainees with the necessary performance skills (common guidelines) and communicational skills (common language) to achieve their mission effectively and efficiency;
* Pointing out the importance of trans-inter-multidisciplinary (knowledge/information) and inter institutional approach (partnership and information share) as a safeguard to the quality of this much needed public service.

**III. Forced confinement in private contexts**

No available data on this type of situations.

**IV. Migration and crisis situations**

As to risks of detention and confinement to women on the move (asylum seekers or migrants), the law establishes that foreign women or men to whom entry in Portugal has been refused and who cannot be transported back to their place of origin within 48 hours may be placed in a Temporary Installation Centre (*Centro de Instalação Temporária*) by a court decision. They can stay in these establishments for a maximum period of 60 days and have the right to legal representation, translation services, healthcare and all material support to their basic needs.

According to the latest report by the National Mechanism of Prevention from the Justice Ombudsperson, in 2017, women made up approximately one third of the total persons in Temporary Installation Centres. In one of these establishments, women were accommodated in an area of the building separate from men except in the case of families, which could stay together in an area destined exclusively to the family. In two other establishments, women were accommodated in rooms shared only by women but located along the same corridor as men, and men and women from the same family had to separate during nighttime.

The High Commission for Migration (public body under the Secretary of State for Citizenship of Equality) has privileged working together with the various sectors of society and promoted initiatives to combat discrimination and raise awareness to the importance of a participatory intercultural dialogue, as well as the elimination of multiple and intersectional discrimination, namely on the grounds of sex and racial or ethnic origin. Among these initiatives and different relevant stakeholders, it is important to highlight the different protocols with police forces which have been celebrated to ensure cooperation in this domain:

* In July 2016, the Public Security Police (PSP) signed a Protocol with the High Commission for Migration to implement the "TOGETHER FOR ALL Program". This program aims "to contribute to the prevention of conflict in multicultural communities that may have some vulnerability, and also for the safety of all citizens regardless of their nationality or cultural belonging." Under the protocol, the PSP committed to "provide training to ACM professionals on the legal framework that manages the police action, taking into account the main strategic and tactical guidance of Special Programs and relevant projects, under this Protocol, and how to articulate communication strategies with the PSP", while the High Commission committed to "provide training to elements of the PSP of the first two levels of intervention on the immigration phenomenon in Portugal, the national and cultural groups living in the country, the issue of diversity and intercultural dialogue (stereotypes, discrimination and ways to deal with difference)". The training activities foresee the participation of 1000 officers. Until August 2018, 55 sessions in the area of integration and cultural diversity have taken place, with the participation of 1027 police officials and agents from all over the country. <https://www.acm.gov.pt/-/acm-e-psp-juntos-por-todos->
* The Republic National Guard (GNR) and the High Commission for Migration signed a Protocol in November of 2017 aiming at actively cooperating in the implementation and development of the Migrant Support Program; sharing information and good practices; providing relevant and adequate initiatives to the target groups’ challenges; and promoting awareness raising and training opportunities to local partners and the general public on deconstructing stereotypes and prejudices. Until August 2018, and under this Protocol, 98 soldiers received a special training.
* Lastly, the High Commission for Migration and the Directorate General of Prison Services and Reintegration (DGRSP) signed, on 19 July of 2018, an interinstitutional Collaboration Protocol with the goal of empowering human resources of DGRSP linked to areas of Re-education and Social rehabilitation, as well as the Prison Guards, giving them specific knowledge and tools to communicate with migrants and ethnic groups. It estimates the promotion of 14 training sessions, spread all over the country, targeting 300 professionals that will receive training on deconstructing stereotypes, racial discrimination and intercultural education. <https://www.acm.gov.pt/-/acm-e-dgrsp-assinam-protocolo-de-colaboracao-capacitar-profissionais-da-reeducacao-e-reinsercao-social-para-a-interculturalidade>