



International Covenant on Civil and Political Rights

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Human Rights Committee

Report on follow-up to the concluding observations of the Human Rights Committee*

Addendum

Evaluation of the information on follow-up to the concluding observations on Portugal

Concluding observations (128th session): [CCPR/C/PRT/CO/5](#), 27 March 2020

Follow-up paragraphs: 33, 37 and 41

Information received from State party: [CCPR/C/PRT/FCO/5](#), 27 July 2021

Committee's evaluation: 33 [B][A][C], 37 [B] and 41 [A]

Paragraph 33: Trafficking in persons

The State party should:

- (a) Ensure that cases of trafficking in persons are thoroughly investigated, that those responsible are prosecuted and, if found guilty, are sentenced appropriately, and that victims are provided with full reparation and appropriate protection and assistance;
- (b) 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;
- (c) Ensure that victims of trafficking in persons have access to asylum procedures in which their potential needs can be determined.

Summary of the information received from the State party

(a) Every case of trafficking in persons is thoroughly investigated. If enough evidence is gathered, cases are prosecuted and go to trial and, if found guilty, those responsible are sentenced accordingly, in line with the principle of legality. While there were 13 cases of confirmed victims of trafficking in persons in 2020, decreasing from 78 cases in 2019, there was a 26 per cent increase in cases from 2018 to 2019. Data from first instance courts pertaining to 2020 trafficking-related prosecutions were due to become available in October 2021. Furthermore, in 2020, 20 residence permits were issued for victims of trafficking in persons, an increase from 7 permits in 2017.

The Prosecutor General issued Directive No. 1/2021, addressing both prosecutors and criminal police forces, providing, inter alia, that crimes of trafficking in persons shall be

* Adopted by the Committee at its 138th session (26 June–26 July 2023).



subject to evaluation, monitoring and follow-up by her cabinet and the Office on Families, Young Persons and Children. Furthermore, the Directive contains operational instructions for prosecutors on directing criminal investigations and promoting and protecting the rights of victims of crime.

Research was conducted on compensation claims filed by public prosecution services on behalf of victims, and on the use of legal instruments to confiscate the proceeds of crime. From 2020 to 2021, the Prosecutor General's Office, in partnership with the Observatory on Trafficking in Human Beings, the Criminal Police and the Immigration and Border Services researched trafficking networks operating in Portugal.

In relation to trafficking in persons for labour exploitation and forced labour, the Authority for Working Conditions has been developing inspection actions to detect irregular situations in economic sectors. Order No. 138-E/2021 of 1 July 2021 approves new model documents given to victims proving their victim status, including in cases of trafficking, and effectively helping them better understand their legal rights.

(b) The inspectors of the Authority for Working Conditions are regularly trained on trafficking in persons. In 2020, training on trafficking for labour exploitation and forced labour was delivered to 80 new labour inspectors, an increase from 45 new inspectors in 2019. In 2020 and 2021, the Observatory on Trafficking in Human Beings delivered several training sessions to various professionals, including staff of the National Republican Guard, migrant support structures and health-care services. The Public Security Police conduct a number of specific training courses on trafficking in persons for police officers. In 2020, 100 professionals from the Criminal Police, the Immigration and Border Services and in consular posts received training on trafficking in persons. Judges and prosecutors are given proper training during their extensive training programme after their admission following the public competitions and can participate in workshops, conferences and e-learning platforms to further develop their skills.

In April 2021, a working group of the Observatory on Trafficking in Human Beings developed a protocol establishing procedures for the prevention, identification and protection of child victims of trafficking in persons. The protocol consists of a referral mechanism that aims to facilitate the prevention, detection and identification of trafficking in children and to support and protect children who are presumed to be victims of trafficking in persons. It consolidates and reinforces mechanisms for coordination, cooperation and communication between relevant professionals, and guarantees the best interests of the child throughout the process. Operational objectives include defining a target group of professionals who should be involved throughout the process and increasing their training and access to information to promote a more proactive approach to identifying child victims.

(c) No information was provided.

Committee's evaluation

[B]: (a)

The Committee welcomes the Prosecutor General's issuance of Directive No. 1/2021 establishing operational instructions for prosecutors in order to, inter alia, improve inter-agency coordination during investigations, focus particular attention on trafficking cases involving child victims, and incorporate measures to prevent re-victimization. It also notes the steady increase of residence permits issued to victims of trafficking in persons. Nevertheless, the Committee regrets the decrease in 2020 in cases of confirmed victims and requests information on the total number of investigations that have been launched into suspected crimes of trafficking in persons and the results of the investigations, including the number of prosecutions and corresponding sanctions, and information on the full reparation provided to victims.

[A]: (b)

The Committee welcomes the development of the protocol establishing procedures for the prevention, identification and protection of child victims of trafficking in persons and the information on the training programmes delivered by the Observatory on Trafficking in Human Beings. It takes note of the information on the specific training on trafficking in

persons provided to Public Security Police officers, the training offered to professionals from the Immigration and Borders Services and in consular posts, as well as the workshops and e-learning platforms made available to judges and prosecutors. The Committee requests specific information on the modules on trafficking in persons that are included in the mandatory training of judges and prosecutors, and additional data on the number of judges and prosecutors who have participated in workshops and e-learning platforms related to trafficking in persons.

[C]: (c)

The Committee regrets the lack of information on steps taken to ensure victims of trafficking in persons have access to asylum procedures in which their potential needs can be determined. It therefore reiterates its recommendation.

Paragraph 37: Unaccompanied minors

The State party should ensure that children and unaccompanied minors are not detained, except as a measure of last resort and for the shortest appropriate period of time, taking into account their best interests as a primary consideration with regard to the duration and conditions of detention and their special need for care. It should ensure that the physical conditions in all immigration detention and reception centres are in conformity with international standards. It should also ensure that guarantees are in place to protect child asylum-seekers, in particular unaccompanied children, ensuring that they have access to adequate education, health, social and psychological services, and legal aid, and that they are provided with a legal representative and/or guardian without delay.

Summary of the information received from the State party

The Immigration and Border Services do not detain accompanied or unaccompanied minors at any border control posts. Pursuant to an order of the Minister of Home Affairs of 31 July 2020, approving the regulation of temporary accommodation centres and equivalent facilities, children are never to be detained. Accompanied children will be housed with their parents or guardians, but never detained. All unaccompanied minors should benefit from a human rights-based procedure, as provided in the law on the protection of children and young persons in danger, including the promotion and protection of their rights to health, education and social security. When an unaccompanied minor enters the country, two procedures are launched: a judicial procedure for protection or guardianship, and an administrative procedure for international protection. Children and young persons are cared for in residential care homes. In accordance with Decree Law No. 164/2019, which has been in force since January 2020, residential units must have adequate facilities, equipment and staff to be able to provide children with appropriate care, including to meet the particular needs of children with different linguistic, cultural, religious and social backgrounds.

Children who arrive at a border post seeking international protection and those eligible to such protection are appointed a representative in accordance with the protection proceedings. Under Ministerial Order No. 103/2020, a single system has been established for persons seeking international protection and eligible to it. The border services are responsible for providing initial protection to unaccompanied minors, after which the social security services take over. In 2019, 86 unaccompanied minors were hosted in reception centres.

In response to the call from the European Commission in March 2020 for European Union member States to welcome children in vulnerable situations who had been living in Greece, a multidisciplinary working group was established. It designed a reception and integration model to ensure that the unaccompanied minors who had moved to Portugal from Greece since 2020 received psychological, social and cultural support for their integration. National standard operating procedures have been established, in coordination with the different authorities, to ensure an integrated and comprehensive approach that secures protection for children. The multidisciplinary working group holds regular meetings in order to guarantee the monitoring and evaluation of the integration process and to create adequate and child-

friendly responses for refugee children in areas such as health, education, professional training, socialization and community integration.

Committee's evaluation

[B]

The Committee welcomes the information on the measures in place to ensure unaccompanied minors are not detained. It also welcomes the establishment of a single system for persons seeking and benefiting from international protection and standard operating procedures to ensure an integrated and comprehensive approach that secures protection for children. The Committee requests information on steps taken during the reporting period to ensure that physical conditions in all immigration and reception centres are in conformity with international standards, including whether any mechanisms are in place to ensure adequate and independent monitoring of those centres.

Paragraph 41: Pretrial detention

Recalling its previous recommendations,¹ the State party should take further steps to ensure that pretrial detention is used only as a measure of last resort and for the shortest possible time, in line with the provisions of the Covenant, and that it is reviewed on a regular basis. The State party should continue promoting non-custodial alternative measures and apply the measures in a systematic manner, and it should reduce the length of investigations and legal procedures to improve judicial efficiency.

Summary of the information received from the State party

Pretrial detention in Portugal is an exceptional measure, used as a last resort when less restrictive measures are not adequate, sufficient or proportional to the circumstances of the case. The application of pretrial detention must be reviewed every three months, as well as whenever new evidence shows that the requirements have changed, at the request of the public prosecution or ex officio by a court. Public prosecution authorities have been issuing orders and recommendations to ensure that cases of pretrial detainees are properly handled, to guarantee that the maximum duration of pretrial detention is not exceeded and to ensure that the deadlines for mandatory review are met.

In the context of the coronavirus disease (COVID-19) pandemic, Act No. 9/2020 was adopted, mandating the exceptional review of pretrial detention cases, in particular for defendants over the age of 65 who have a physical or mental illness or a degree of autonomy incompatible with staying in prison. The Prosecutor General issued two directives to accelerate and facilitate the speedy implementation of the Act, instructing public prosecutors to reassess the necessity, adequacy and proportionality of the application of pretrial detention, especially in the light of particular risks for the health and lives of detainees, and allowing for house arrest, if necessary, combined with the use of electronic surveillance devices, in relevant cases. More than 2,000 inmates have been released from pretrial detention under the Act, which has also been applied in the military detention facility, offering detainees an “exceptional exit permit”.

Between 2019 and 2021, 320 new judges and public prosecutors and 100 new Criminal Police inspectors were hired through public competitions to address staff shortages and thereby reduce the length of investigations and legal procedures.

Committee's evaluation

[A]

The Committee welcomes the information on the hiring of new judges, prosecutors and inspectors, as well as the adoption and application of Act No. 9/2020 and the respective directives issued by the Prosecutor General mandating exceptional review of pretrial detention cases in the context of the COVID-19 pandemic. The Committee requests statistical

¹ CCPR/C/PRT/CO/4, para. 9.

information on the number of inmates in pretrial detention, the duration of detention, and the number of detainees offered non-custodial alternative measures, disaggregated by detention centre. The Committee also requests additional information on whether steps have been taken or are envisaged to ensure that the measures under Act No. 9/2020 and the exceptional review of pretrial detention cases will be extended beyond the context of the pandemic and applied in a systematic manner.

Recommended action: A letter should be sent informing the State party of the discontinuation of the follow-up procedure. The information requested should be included in the State party's next periodic report.

Next periodic report due: 2027 (country review in 2028, in accordance with the predictable review cycle).
