

Supplementary report on

“Sexual Exploitation of Children in Portugal”

to the fifth and sixth periodic reports of Portugal on the implementation of the Convention on the Rights of the Child and the Optional Protocol on the sale of children, child prostitution and child pornography.

Submitted by

CIAF Portugal and ECPAT International

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Since its creation in January 2018, CIAF Portugal has been mainly focusing on conducting actions against the sexual exploitation of children in travel and tourism, in line with ECPAT International's Code of Conduct. It carried out several awareness raising campaigns to sensitise the general public and private companies to this issue; and disseminated tools among tourism professionals to help them prevent, identify and report cases of sexual exploitation of children.

In parallel, CIAF Portugal also works on promoting good practices and campaigns to prevent teen pregnancy and the violation of children's rights.



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ECPAT International is a global network of civil society organisations working for the eradication of all forms of sexual exploitation of children. For the past 28 years, ECPAT has acted as the international watchdog, monitoring States' response to sexual exploitation of children, and advocating for robust international measures to protect children from sexual exploitation. ECPAT International currently has 104 network members operating in 93 countries.

Contents

Context of this supplementary report.....	3
Status and developments regarding sexual exploitation of children in Portugal	3
General measures of implementation	4
Prevention of the sale of children, child prostitution and child pornography (art. 9 (para. 1 and 2) OPSC)	6
Prohibition of the sale of children, child prostitution and child pornography (arts. 3, 4 (2) and (3) and 5-7 OPSC)	7
Protection of the rights of child victims (art . 8 and 9 (3) and (4) OPSC).....	9
International Cooperation (art. 10 OPSC)	11
Recommendations to the GoP	11

Context of this supplementary report

1. In 2003, the Government of Portugal (GoP) ratified the Optional Protocol on the sale of children, child prostitution and child pornography (OPSC) and thus committed explicitly to combat sexual exploitation of children (**SEC**). In September 2015, through the adoption of the 2030 agenda for Sustainable Development, the GoP re-committed explicitly to eliminate all forms of violence against children, including sexual abuse and exploitation.¹
2. The present report is supplementary to the fifth and sixth periodic reports of Portugal on the implementation of the Convention on the Rights of the Child and the OPSC, and is based on ECPAT International's and CIAF Portugal's research for the period 2014-2018.
3. The scope of this submission is limited to **SEC** and its different manifestations, including exploitation of children in prostitution,² online child sexual exploitation (**OCSE**), child sexual abuse materials (**CSAM**),³ child trafficking for sexual purposes and sexual exploitation of children in the context of travel and tourism (**SECTT**)⁴ and child, early and forced marriage (**CEFM**). For the purpose of this report, the term "children" will refer to any individual below 18. It can differ from the Portuguese legal terminology, which also uses the term "children and youngsters".

Status and developments regarding sexual exploitation of children in Portugal

4. Portugal is a semi-presidential representative republic. Executive power is exercised by the prime minister and the government; while legislative power is held by a unicameral Assembly. In 2017, the country's population reached 10.330 million inhabitants,⁵ of which around 1.764 million are under 18.⁶ Portugal has a 99% youth literacy rate, and 100% of the births are registered by the authorities.⁷
5. Portugal is the world's 46th largest economy.⁸ The country enjoys a very high human development rate (0.847 as of 2017),⁹ but income inequality levels remain high despite a slight decrease in poverty over the reporting period. The National Statistical Institute revealed that 23.3% of the population (around 2.399 million persons) were at risk of poverty or social exclusion in 2017, compared to 26.7% in 2014. In addition, the percentage of the population in situation of severe material deprivation decreased from 10.6% in 2014 to 6.9% (around 708,000 persons) in 2017. Overall, 20.7% of the children remained at risk of poverty in 2017, compared to 24.8% in 2014.¹⁰
6. Around 75% of the population now uses the internet, compared to 67% in 2014.¹¹ The National Communications Regulatory Authority (ANACOM) revealed that, in the first trimester of 2018, 94% of the children aged 10 to 17 had a mobile phone, and 88% of the families with children had a fixed broadband subscription. Furthermore, 59% of child mobile phone users had access to the internet on their device, including 78% of those aged 16 to 17. Among these Internet users aged 13 to 17, 97% were on social networks, and 96% were using instant messaging applications.¹² This situation increases the risks associated with online **grooming** and the distribution of **CSAM**.
7. According to the Criminal Police, the number of investigations linked to "**child pornography**" has gradually increased over the reporting period, as follows: 245 in 2014, 436 in 2015 and 591 in 2016.¹³ However, it decreased by 39% in 2017.¹⁴ These investigations led to the arrest of 25 persons in 2014, 31 in 2015, 32 in 2016 and 37 in 2017. Out of these 125 suspects, 119 were men. Overall, 14.3% of the investigations opened under Chapter V of the Penal Code (Offences against sexual freedom and self-determination) were related to "**child pornography**" in 2017, compared to 9% in 2014, 14.3% in 2015 and 18.1% in 2016. The number of investigations related to **online grooming** remains low, as the

offence was only introduced in 2015. It represented 1.2% and 1.6% of the investigations opened under Chapter V in 2016 and 2017, respectively. Only one person had been arrested under this charge as of 31 December 2017.¹⁵ According to the Public Prosecutor's Office, 60 persons were condemned to CSAM-related offences in 2015.¹⁶

8. Portugal is a **destination, transit and, to a lesser extent, source country for children subjected to sex trafficking**. Portuguese and foreign children, mostly from Africa and Eastern Europe, are subjected to sex trafficking within the country; and Portugal is being used as a new route into the Schengen area by Sub-Saharan African criminal networks trafficking children for sexual exploitation.¹⁷ From 2012 to June 2016, a total of 36 children (32 girls and four boys) were formally identified as victims of trafficking. Most of them originated from Nigeria (15), Angola (10), Guinea-Bissau (three) and Bulgaria (three); and were trafficked for the purpose of sexual exploitation (31 out of 36). There were no Portuguese children among the victims.¹⁸
9. There is no updated data that would allow to assess the scope of **exploitation of children in prostitution in Portugal**. Only seven persons were arrested for organising and facilitating the prostitution of children from 2014 to 2017, as follows: three in 2014, three in 2015 and one in 2017. Three of them were women. Overall, only 0.5% of the investigations opened under Chapter V of the Penal Code were linked to this offence in both 2016 and 2017, compared to 1.4% and 1.1% in 2014 and 2015, respectively.¹⁹ The Public Prosecutor's Office informed that, in 2015, five persons were condemned for having recourse to child prostitution, and three others for trafficking children and organising child prostitution.²⁰
10. The National Statistical Institute revealed that 20,641,860 tourists had visited the country in 2017, which represents an increase of over 28.55% when compared to 2014.²¹ In 2016, ECPAT International's Global Study on **SECTT** revealed that Portugal was progressively becoming a preferred destination for travelling child sex offenders, and that **SECTT** appeared to have increased dramatically due to the financial crisis and resulting austerity measures.²² Even though there is no recent study or data that would allow to assess its actual scope and characteristics, **SECTT** is believed to be firmly entrenched in tourist areas such as Lisbon, Porto, Madeira and the Azores.²³ Twelve stakeholders from the international tourism industry with operations in the country signed ECPAT's *Code of Conduct for the Protection of Children from Sexual Exploitation in Travel and Tourism*; but no local company did.²⁴
11. The GoP does not provide statistics on **CEFM** to UNICEF,²⁵ nor does it regularly release disaggregated data that would allow to assess its scope precisely. Even though new qualitative studies would be useful to better understand its characteristics and dynamics, it is believed to remain particularly residual among the Roma community and the population of African or Asian descent.²⁶

General measures of implementation

Policy and overall strategy

12. Portugal does not have an action plan against **SEC**. In April 2015, a draft law on the creation of a National Strategy for the Protection of Children against Sexual Exploitation and Abuse was submitted to the Assembly, but ultimately never adopted.²⁷ In its fifth and sixth periodic reports, the GoP informed the CRC that the adoption of a dedicated action plan on the implementation of the OPSC was not deemed necessary, as the upcoming National Strategy for the Rights of the Child (ENDC) and the fourth National Plan to Prevent and Combat Trafficking in Human Beings (PAPCTSH, see below) encompassed most of the obligations set forth in the Optional Protocol. The GoP also stated that the ENDC will include a plan of action that incorporates issues related to the OPSC; and will allow for a

profound reform of the data collection system of children.²⁸ Even though the ENDC was approved by the Commission for the Promotion of the Rights and Protection of Children and Youngsters (CNPDPJC) in December 2017, it still had not been formally adopted by the GoP nor made available to the public at the time of drafting. However, the draft State Budget for 2019 contains provisions on the ENDC, and mentions that it will be implemented between 2019 and 2022.²⁹ The National Strategy for Equality and Non-Discrimination 2018-2030 includes measures to eradicate CEFM, notably through awareness raising campaigns and the establishment of better reporting mechanisms.

13. On 31 December 2013, the GoP adopted its third PAPCTSH (2014-2017). It featured 53 measures to be implemented by a wide range of public bodies, some of them in cooperation with civil society. They were structured around five Strategic Areas: prevention and awareness-raising; education, training and qualification; protection, intervention and capacity-building; criminal investigation; and cooperation. However, no dedicated budget was allocated for the implementation of the plan, and the majority of the indicators meant to assess it merely quantified what had been done instead of setting concrete targets. According to the final execution report carried out by the Commission for Citizenship and Gender Equality, 48 out of the 53 (92.4%) measures laid down in the PAPCTSH had been implemented.³⁰ Some of them, notably Measure 41 (develop action protocols for the prevention, detection and protection for children victims of trafficking) will directly benefit **SEC** victims. Nonetheless, ECPAT International and CIAF Portugal deplore the fact that no actions were taken to implement Measure 7 (raise awareness about “*sex tourism*” among tour operators). In addition, Measures 16 (carry out a study on the new forms of human trafficking, notably for sexual exploitation) and 17 (carry out a study on the recruitment of victims on the internet or through social networks) were not implemented either, mostly due to the lack of dedicated funding.
14. In June 2018, the GoP adopted a fourth PAPCTSH for the period 2018-2021. It features 22 measures and puts a particular emphasis on strengthening the knowledge about and raising awareness on human trafficking; ensuring that victims have access to their rights and improving the intervention process; and strengthening the fight against organised crime. Unlike the third PAPCTSH, this one is allocated a budget, and it sets clear deadlines and targets. However, its Specific Objective 1.1, which aims at producing quality information on human trafficking, only mentions that the data should be disaggregated by gender, even though disaggregating it by age and by type of trafficking is paramount to better assess the scope of child trafficking for the purpose of sexual exploitation in the country. Although the PAPCTSH seems to address the issue of human trafficking quite comprehensively, more action plans or programmes are needed to cover all the manifestations of **SEC**, and therefore ensure the full implementation of the OPSC.

Coordination and evaluation

15. The Commission for Citizenship and Gender Equality (CIG), which operates under the authority of the Bureau of the Council of Ministers’ Presidency and the State Secretariat for Citizenship and Equality, is responsible for coordinating and monitoring the implementation of the PAPCTSH. To do so, it prepares annual work plans, supervises their implementation and reports annually on the progress achieved. The CIG is assisted in these missions by a Working Group involving the competent Ministries, the Superior Council of Magistracy, the Public Prosecutor's Office, the National Association of Portuguese Municipalities and three NGOs (*Associação Portuguesa de Apoio à Vítima (APAV)*, *Associação para o Planeamento da Família* and *União de Mulheres Alternativa e Resposta*). In 2008, a National Coordinator for Human Trafficking was appointed within the CIG, and subsequently designated as National Rapporteur on Human Trafficking in 2012. However, in December 2016, the

Council of Europe's Group of Experts on Action against Trafficking in Human Beings (GRETA) pointed out that a structural separation between monitoring and executive functions was desirable to monitor the implementation of the PAPCTSH in a more objective way, in order to better identify shortcomings and formulate accurate policy recommendation. Thus, it recommended the GoP to designate a separate entity or independent mechanism to act as a National Rapporteur.³¹

16. The National Commission for the Promotion of the Rights and Protection of Children and Youngsters (CNPDPJ), working under the authority of the Ministry of Labour, Solidarity and Social Security, was established in 2015 through Law n°142/2015. It replaced the former Commission for the Protection of Children and Young People at Risk. Its main attributions are to contribute to the planning of State intervention and to the coordination, monitoring and evaluation of the public actions taken to promote and protect the rights of children; and to provide support to and monitor the activities of the local Commissions for the Protection of Children and Youngsters. The CNPDPCJ will therefore be responsible for coordinating and monitoring the implementation of the upcoming ENDC. In July 2018, the ruling political party announced that it will submit a draft law in order to create an Observatory on the implementation of the CRC within the CNPDPCJ.³²

Prevention of the sale of children, child prostitution and child pornography (art. 9 (para. 1 and 2) OPSC)

17. In August 2015, the GoP created a child sex offender registry through Law n°103/2015. It was ultimately established in November 2015. The registry consists of a centralised database managed by the Ministry of Justice, and contains information about all the individuals convicted of offences against sexual freedom and self-determination of children. It complies with international standards on confidentiality and privacy, as only judicial authorities, law enforcement agencies, the Prison Service and the Commissions for the Protection of Children and Youngsters can access its content. As of August 2018, 5,252 persons were listed on the registry.³³ The latter had been consulted 189 times as of November 2017, but only by the judicial authorities and solely for investigation purposes.³⁴ Thus, the registry has to date not been used optimally to prevent **SEC**. Even though they must notify the authorities before travelling abroad, there are no legal provisions regarding international travel restrictions for registered child sex offenders.
18. Article 69-B of the Penal Code states that a person convicted of offences against sexual freedom and self-determination can be prohibited from exercising any profession or activity that involve regular contact with children for a period of up to 20 years. Article 2 of law n°113/2009, as amended by Law n°103/2015, states that, in the context of hiring processes for such professions and activities, the recruiting entity is obliged to ask the candidates to present a certificate of criminal record. This provision applies to both public and private entities, and also covers voluntary or unpaid work. In addition, the hiring entity must ask the selected candidate for a new certificate every year.
19. The GoP conducted nationwide awareness-raising campaigns on human trafficking in 2014, 2016 and 2017. In 2016, it focused on sensitising the public to the issue of child trafficking, including for the purpose of sexual exploitation. As part of this initiative, communication materials were circulated or broadcasted online, on TV channels, radio stations, malls, newspapers and through billboards. Overall, the CIG estimated that 13% of the population had been exposed at least three times to the information conveyed by this campaign through the media.³⁵ In addition, local Multidisciplinary Teams carried out 55 awareness-raising campaigns on human trafficking at the regional level from 2014 to 2017.³⁶ As part of the Digital Leaders Initiative, 600 students from primary and secondary schools were trained

to promote safe internet using practices among their peers in 2017/2018.³⁷ However, no specific awareness raising campaigns on the OPSC have been conducted, and more efforts are needed to sensitise the general public to and prevent all the manifestations of **SEC**.

Prohibition of the sale of children, child prostitution and child pornography (arts. 3, 4 (2) and (3) and 5-7 OPSC)

20. Despite some shortcomings, Portuguese laws are reasonably comprehensive in addressing the different manifestations of **SEC**. In August 2015, the GoP consolidated its legal framework against SEC with the adoption of law n^o103/2015, which transposed EU Directive 2011/93/UE on combating the sexual abuse and sexual exploitation of children and child pornography into its domestic legislation. **SECTT** is still not explicitly criminalised in the Penal Code, but can be combatted through the legal provisions on prostitution and human trafficking (see below). In addition, article 11 of the Penal Code provides for the criminal responsibility of legal persons when it comes to offences against the sexual integrity of children, while article 5-1 g) allows for extraterritorial jurisdiction for offences committed by legal persons whose headquarters are in Portugal. Despite these provisions, turning it into a separate legal offence would help to assess the actual incidence of **SECTT**, as there are currently no cases tracked.
21. Article 160-2 of the Penal Code defines and punishes the offence of **child trafficking for the purpose of exploitation, including sexual exploitation**, with prison sentences from three to ten years. Article 160-3 states that this offence carries heavier penalties (from three to twelve years in prison) if it is committed for profit-seeking purposes or if it involves violence, kidnapping, serious threats or fraudulent tactics, among other considerations. These heavier penalties can furthermore be increased by one third if the offence is committed by a criminal association or a public servant on duty, or if the victim has suffered serious harm (article 160-4). In addition, article 160-6 punishes, with prison sentences from one to five years, whoever, despite knowing about the existence of an offence under article 160-2, uses the services of the victim; unless the perpetrator faces a heavier penalty provided for by another legal provision.
22. Article 175-1 of the Penal Code punishes, with prison sentences from one to eight years, whoever **instigates, promotes or facilitates child prostitution**; or lures a child into prostitution. Article 175-2 states that this offence carries heavier penalties (from two to ten years in prison) if it is committed for profit seeking-purposes or if it involves violence, serious threats or fraudulent tactics, among other considerations. Article 174 of the Penal Code provides for the **criminalisation of clients in the context of SEC in prostitution**. It punishes, with prison sentences up to three years, any adult that has, or attempts to have, sexual relations with children aged 14 to 18 in exchange for remuneration or any other form of consideration. Under both articles 175 and 174, the penalties can be increased by one third if the victim is under 16 or if the offence is committed by two or more persons (article 177).
23. The age of sexual consent is by law set at 14 and is reflected in the articles 171 (1) and 171(2) of the Penal Code, which provide that whoever has sexual relations with a child under 14, or leads such child to have sexual relations with a third person, can be punished with prison sentences from three to ten years. This penalty can be increased by one third if the offence is committed by two or more persons (article 177), and attempts to commit this offence are also punishable according to article 171-5. However, it is the view of ECPAT International and CIAF Portugal that such a low age of sexual consent is detrimental to the protection of children against sexual abuse and exploitation.

24. Article 176 of the Penal Code covers the **prohibition of “child pornography”**. Even though its provisions are quite comprehensive, they **lack a formal definition** in line with article 2 (c) of the OPSC. Article 176-1 of the Penal Code punishes, with prison sentences from one to five years, whoever a) uses a child in a “*pornographic show*”, or lures a child into participating in such a show; b) uses a child to produce **CSAM**, or lures a child into participating in the production of such material; c) produces, distributes, imports, exports, discloses, displays or transfers **CSAM**; d) acquires or possesses **CSAM** for the purpose of distributing, importing, exporting, disclosing, exhibiting or transferring it. The maximum penalty increases to up to eight years if these offences are perpetrated professionally or for profit-seeking purposes (article 176-2); or when violence or serious threats are involved in the context of articles 176-1 a) and 176-1 b) (article 176-3). In addition, the penalties can be increased by one third if the victim is under 16 or by half if the victim is under 14 (article 177). According to article 176-4, the offences laid down in articles 176-1 a) and 176-1 b) also cover material featuring realistic representations of children, which includes “*virtual child pornography*”. In this case, the penalty is reduced to up to two years in prison. Mere possession, consultation and purchasing are also criminalised, as article 176-5 punishes, with prison sentences up to two years, whoever acquires, possesses, obtains, accesses or facilitates access to **CSAM**. In addition, article 176-6 punishes any adult who attends or facilitates access to a “*pornographic show*” involving children under 16, either in person or through electronic means, with prison sentences up to three years. However, it is the view of ECPAT International and CIAF Portugal that article 176-6 should also apply in the context of “*pornographic shows*” involving children over 16. The penalties laid down in articles 176-5 and 176-6 increase to up to five years in prison if the offences are perpetrated for profit-seeking purposes. Finally, attempts to commit offences under article 176 are also punishable (article 176-8).
25. Even though these provisions are not specific to **OCSE**-related crimes, Internet service providers have the obligation to block suspected **CSAM** and to report it to the relevant law enforcement authorities under article 13 of *Decree-Law nº7/2004* on e-commerce. Companies that fail to comply with these mandatory reporting requirements can be punished with a fine ranging from 5,000 to 100,000 euros (article 37).
26. Article 176-A-1 of the Penal Code criminalises **online grooming**. It punishes, with prison sentences up to one year, any adult that contacts a child through electronic communications for the purpose of committing offences under articles 171-1, 171-2 or 176-1 a), b) and c). If this grooming is followed by material acts leading to a meeting, the penalty increases to up to two years (article 176-A-2). Even though this article fully covers grooming for the purpose of using children in “*pornographic shows*” or in the production of **CSAM**, ECPAT International and CIAF Portugal deplore that it does not give an equal protection to all children against grooming for the purpose of having sexual relations, as articles 171-1 and 171-2 only apply to sexual abuse of children under 14.
27. Portugal is among the twelve EU member States that had **criminalised forced marriage** as of November 2016.³⁸ Indeed, article 154-B of the Penal Code punishes, with prison sentences up to five years, whoever forces a third person to marry or enter any similar union. However, Portuguese legislation related to **CEFM** does not fully prohibit early marriage. Article 1601 of the Civil Code establishes 16 as the legal age of marriage, but article 1612 states that children over 16 must obtain an authorisation from their parents, legal guardian or, where applicable, an administrator from the Civil Registry Office. ECPAT International and CIAF Portugal remain particularly concerned by the fact that married children become automatically emancipated (article 132 of the Civil Code), which can potentially undermine the full enjoyment of the rights and protections they are entitled to.³⁹

Extraterritorial jurisdiction and extradition

28. Law nº144/99 on **international judicial cooperation in criminal matters**, as amended by Law nº115/2009, lacks a specific reference to the possibility of extraditing individuals for offences covered by the OPSC. Its article 31 states that an offence can only qualify as extraditable if the following requirements are met: double criminality, minimum gravity (punishable by at least one year in prison) and ability of the requiring State to prosecute. The provisions of international treaties to which Portugal is party take precedence over Law nº144/99. However, these usually establish similar conditions, as is the case of extradition treaties with Argentina-Brazil-Spain (2010) or between the European Union and the United States (2003).
29. Article 5-1 c) of the Penal Code allows for **extraterritorial jurisdiction** for offences laid down in articles 171 (sexual abuse of children under 14), 172 (criminalisation of clients in the context of **SEC**), 175 (instigation, promotion and facilitation of child prostitution) and 176 (prohibition of “*child pornography*”), provided that the alleged perpetrator is arrested in Portugal and that he/she cannot be extradited. However, a specific reference to article 160 (human trafficking) would be desirable to fully encompass all the offences covered by the protocol, especially since article 5-1 c) does not feature a condition of double criminality. This is not the case for article 5-1 e), that allows for extraterritorial jurisdiction for extraditable offences committed abroad by Portuguese citizens, or by foreigners against Portuguese citizens, if the alleged perpetrator is arrested in Portugal and cannot be extradited. Under the same conditions, Portuguese courts are competent to trial foreigners if a request for their extradition has been denied (article 5-1 (f)).

Protection of the rights of child victims (art .8 and 9 (3) and (4) OPSC)

Measures adopted to protect the rights and interests of child victims of offences prohibited under the Optional Protocol

30. The Ombudsman’s Children, Elderly Persons and Persons with Disabilities Unit was established in 2009 to receive complaints regarding the violation of children’s rights. It runs a dedicated child hotline and a child-friendly webpage that contains information on the complaint procedure. It is staffed by one Coordinator, two law graduates and one psychologist. The Public Security Police, the Criminal Police and the Republican National Guard are competent to investigate **SEC**-related crimes. However, they do not run dedicated and child-friendly hotlines that would allow to report such offences. The Immigration and Borders Service (SEF) has a dedicated Anti-Trafficking Unit. It is competent to investigate crimes linked with child trafficking for sexual exploitation, and also provides training on victim identification to border guards. However, in April 2018, a SEF inspectors’ union warned about the fact that the organisation did not have enough resources and staff to effectively prevent, investigate and prosecute human trafficking.⁴⁰
31. In January 2017, the GoP created a Cybercrime and Technological Criminality National Unit (UNC3T) within the Criminal Police that deals with sexual offences through electronic means. The UNC3T is currently staffed by around 30 detectives, which seems insufficient to deal with the rise in cybercrime affecting the country. In March 2018, the National Director of the Criminal Police said that at least 30 additional detectives would be integrated into the Unit by the end of the year. Nonetheless, ECPAT International and CIAF Portugal deplore the fact that the objective of setting a 100 detectives-strong UNC3T, which was set in 2015, has not been met.⁴¹ In May 2018, the Criminal Police signed a memorandum of understanding with Microsoft Portugal to strengthen its capacity to identify and block online **CSAM**.⁴²

32. In 2013, the CIG established a multi-stakeholders National Trafficking Victims Support and Protection Network (RAPVT). The latter aimed at implementing, in collaboration with civil society, new forms of intervention to promote the social reintegration of victims of human trafficking. In addition, a National Referral System coordinates victim assistance between law enforcement and NGOs; and a checklist on how to identify victims of forced prostitution was developed for NGO staff, law enforcement personnel, health care professionals and social workers. However, civil society reported that the health care sector lacked training on identification for victims of sexual exploitation.⁴³
33. The GoP does not operate dedicated shelters for child victims of sexual exploitation, who receive care under the country's child protection system and are usually placed in institutions.⁴⁴ However, nothing indicates that these institutions provide tailored services for **SEC** victims. As part of its privately funded CARE Plus programme for the period 2018-2020, APAV (see paragraph 15) will expand its network to provide specialised support to children victims of sexual violence in Lisbon/Setúbal and the regions of Algarve, Madeira and the Azores.⁴⁵ In December 2016, GRETA considered that the GoP should increase its efforts to ensure that all victims of trafficking receive adequate assistance, notably by providing a sufficient number of places for all victims who need accommodation; ensuring adequate funding and staff to assist them; and delivering vocational training to facilitate their reintegration into society.⁴⁶ The GoP currently funds three NGO-operated shelters for adult victims of human trafficking,⁴⁷ but committed to open another one to accommodate child victims in its fifth and sixth periodic reports.⁴⁸ In January 2018, a fourth shelter dedicated to child trafficking victims and run by local NGO *Akto – Associação para a Promoção dos Direitos Humanos e Democracia* was opened in the Centro Region.⁴⁹ This facility, which is co-funded by the European Union and the GoP, can provide temporary housing, as well as medical, legal, psychosocial and rehabilitation services to up to six victims.
34. Portuguese NGO *Associação para o Planeamento da Família* (see above) took part in a joint international project to develop guidelines for frontline professionals who deal with victims of forced and/or early marriage, leading to the adoption of a dedicated roadmap in November 2016. This EU-funded initiative also involved the University of Vechta (Germany), the United Nations Population Fund and NGOs from Austria, France, Portugal and the United Kingdom.⁵⁰
35. Sexual offences against children fall under the category of public crimes, and therefore they can be investigated and prosecuted without a formal complaint. In September 2015, the Assembly adopted Law nº130/2015, which amended the Criminal Procedure Code to strengthen the legal provisions on the protection of victims, and reinforce their right to seek compensation from the perpetrator within a reasonable time (article 16 of the law). Chapter IV of the law (articles 20 and following) establishes an enhanced protection regime for particularly vulnerable victims. According to article 21, they can be interrogated by the same person, or by a same sex person in cases of sexual violence, if they so choose and if it does not affect the proceedings. It also provides for the implementation of measures to avoid visual contact between the victims and the accused, notably through the use of videoconference (article 23) or recorded statements (article 24). Furthermore, article 22 states that child victims of a crime have the right to be heard during the trial proceedings, and makes it mandatory to assign them a legal protector if their interest and those of their parents or legal guardians are conflicting. It also protects their right to privacy by forbidding the publication of information that could lead to their identification; and states that, in case of doubt regarding the age of the victim, the latter should be treated as a child. Finally, Law nº130/2015 states that particularly vulnerable victims can have access to State-sponsored shelters (article 25) and benefit from free health care (article 26).

International Cooperation (art. 10 OPSC)

36. In October 2013, the Public Prosecutor's Office (MP) concluded an informal cooperation protocol with the American NGO *National Center for Missing and Exploited Children* (NCMEC) in order to share information about potential suspects of **CSAM**-related offences based in Portugal. From October 2013 to June 2016, the MP's Central Bureau of Investigation and Prosecution received 2,880 reports from NCMEC. Among them, 1,350 were investigated and 601 were referred to the district courts, but only 28 had led to indictments for offences related to "*child pornography*" as of December 2016. This relatively low number can be explained by the difficulty to gather evidence on the identity of the suspects. Ten of these cases had been judged as of November 2016, and all of them have resulted in convictions.⁵¹

Recommendations to the GoP

General measures of implementation

- Conduct a nationwide assessment on the scope and characteristics of all **SEC** manifestations to develop evidence-based policies and strategies; and consider establishing a dedicated mechanism to collect disaggregated data on **SEC**;
- Adopt a specific national action plan to end **SEC**, or at least integrate all aspects of **SEC** in the upcoming National Strategy for the Rights of the Child; and allocate sufficient budget to the CNPDPCJ for its implementation, monitoring and evaluation;
- Designate a new National Rapporteur on Human Trafficking and ensure its independence from the CIG;
- Move forward with the project law on creating an Observatory on the implementation of the CRC; and make sure that its mandate includes both its Optional Protocols.

Prevention

- Allocate enough funding to raise public awareness about all **SEC** manifestations, specifically among vulnerable groups, citizens and visitors;
- Invest in child empowering prevention programmes to address the root causes and multiple vulnerabilities that place children, families and communities at risk;
- Put in place mechanisms to evaluate the effectiveness of awareness-raising and prevention operations;
- Take the appropriate steps to put in place international travel restrictions for registered child sex offenders;
- Establish government-regulated child protection standards for the tourism industry; and take the appropriate steps to sensitise and involve local companies in the fight against SECTT.

Prohibition

- Adopt specific legal provisions to define and criminalise **SECTT**;
- Amend article 176 of the Penal Code to include a definition of "*child pornography*" in line with article 2 (c) of the OPSC; and to punish whoever attends or facilitates access to a "*pornographic show*" involving children under 18;
- Establish 18 as the legal age of marriage without any possible exception;
- Amend article 175-1 of the Penal Code to criminalise clients under 18 but above the minimum age of criminal responsibility in the context of **SEC in prostitution**;
- Amend article 176-1 of the Penal Code to ensure the protection of all children under 18 against **online grooming** by adults for the purpose of sexual relations;

- Amend article 171 of the Penal Code to increase the legal age of sexual consent;
- Amend article 5 of the Penal Code to provide for extraterritorial jurisdiction, without any dual criminality requirement, for offences of human trafficking committed abroad by or against Portuguese citizens and permanent residents in the country;
- Amend Law nº144/99 to remove the dual criminality requirement;
- Make sure to explicitly include **SEC**-related crimes as extraditable offences and to remove the dual criminality requirement when negotiating new extradition treaties.

Protection

- Establish dedicated units in all the law enforcement agencies and prosecution offices to investigate and prosecute **SEC**; as well as dedicated child-friendly hotlines to report **SEC**-related crimes;
- Allocate enough human resources to the Cybercrime and Technological Criminality National Unit in order to efficiently investigate crimes against the sexual integrity of children through electronic means;
- Ensure that law enforcement agencies have the funds, resources and skills to identify, investigate and respond to **SEC** and are able to use adapted protocols when dealing with **SEC** victims;
- Train public health care workers to recognise and report on possible cases of human trafficking and sexual exploitation;
- Make sure that all **SEC** victims benefit from the status of and legal protections granted to particularly vulnerable victims; and that they are interrogated by trained psychologists in the context of trial proceedings;
- Ensure that enough shelters for children victims of **SEC** are available, properly funded, staffed by well-trained personnel and able to offer integrated services (psychological, legal, medical, etc.).

¹ Sustainable Development Goal Targets 5.2, 8.7 and 16.2

² ECPAT prefers the term ‘*exploitation of children in prostitution*’ instead of ‘*child prostitution*’ in line with the recently widely adopted Terminology Guidelines. ECPAT International (2016), “*Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse, Adopted by the Interagency Working Group in Luxembourg, 28 January 2016*”, Bangkok: ECPAT, 29, accessed on 27 March 2018, <http://luxembourgguidelines.org/>.

³ ECPAT prefers the term ‘child sexual exploitation material’ or ‘child sexual abuse material’ over the often in legal context still used ‘child pornography’ in line with the recently widely adopted Terminology Guidelines. ECPAT International (2016), “*Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse, adopted by the Interagency Working Group in Luxembourg, 28 January 2016*”, 39.

⁴ ECPAT International (2016), “*Terminology Guidelines for the Protection of Children from Sexual Exploitation and Sexual Abuse, Adopted by the Interagency Working Group in Luxembourg, 28 January 2016*”, Bangkok: ECPAT, 54, accessed on 27 March 2018, <http://luxembourgguidelines.org/>.

⁵ Department of Economic and Social Affairs of the United Nations Secretariat (2017), “*World Population Prospects; Key Findings and Advance tables*”, 26, accessed on 19 July 2018, https://esa.un.org/unpd/wpp/publications/Files/WPP2017_KeyFindings.pdf

⁶ UNICEF (2017), “*The State of the World’s Children 2017; Children in a Digital World*”, 176, accessed on 19 July 2018, https://www.unicef.org/publications/files/SOWC_2017_ENG_WEB.pdf.

⁷ *Ibid*, 172 & 184.

⁸ The World Bank, “*GDP (current US\$) - All countries and Economies*”, accessed on 19 July 2018, <https://data.worldbank.org/indicator/NY.GDP.MKTP.CD>.

⁹ UNDP (2018), “*Briefing note for countries on the 2018 Statistical Update – Portugal*”, 2, accessed on 3 October 2018, http://hdr.undp.org/sites/all/themes/hdr_theme/country-notes/PRT.pdf.

¹⁰ Instituto Nacional de Estatística (2018), “*Inquérito às Condições de Vida e Rendimento 2017*”, 6, accessed on 20 July 2018, https://www.ine.pt/ngt_server/attachfileu.jsp?look_parentBoui=328742277&att_display=n&att_download=y; Instituto Nacional de Estatística (2015), “*Inquérito às Condições de Vida e Rendimento 2014 - 2015*”, 5, 4 & 2, accessed on 20 July 2018, https://www.ine.pt/ngt_server/attachfileu.jsp?look_parentBoui=249049186&att_display=n&att_download=y.

¹¹ Instituto Nacional de Estatística (2017), “*Inquérito à Utilização de Tecnologias da Informação e da Comunicação nas Famílias*”, 3, accessed on 20 July 2018, https://www.ine.pt/ngt_server/attachfileu.jsp?look_parentBoui=310280029&att_display=n&att_download=y.

¹² Autoridade Nacional de Comunicações (2018), “*Consumo de comunicações eletrónicas pelas crianças*”, accessed on 20 July 2018, <https://www.anacom.pt/render.jsp?contentId=1436288>.

- ¹³ Público (2017), “PJ abre mais de dez inquéritos por semana por pornografia infantil na Net”, accessed on 24 July 2018, <https://www.publico.pt/2017/06/04/sociedade/noticia/pj-abre-mais-de-dez-inqueritos-por-semana-por-suspeitas-de-pornografia-infantil-na-internet-1773927>.
- ¹⁴ Sistema de Segurança Interna (2018), “Relatório Anual de Segurança Interna 2017”, 31, accessed on 24 July 2018, <https://www.portugal.gov.pt/download-ficheiros/ficheiro.aspx?v=9f0d7743-7d45-40f3-8cf2-e448600f3af6>.
- ¹⁵ Sistema de Segurança Interna (2018), *Ibid.*, 28; Sistema de Segurança Interna (2017), “Relatório Anual de Segurança Interna 2016”, 28; Sistema de Segurança Interna (2016), “Relatório Anual de Segurança Interna 2015”, 42; Sistema de Segurança Interna (2015), “Relatório Anual de Segurança Interna 2014”, 47- accessed on 24 July 2018, <http://www.otsh.mai.gov.pt/Recursos/Pages/default.aspx>.
- ¹⁶ Jornal de Notícias (2016), “Crimes sexuais contra crianças estão a aumentar em Portugal”, accessed on 9 September 2018, <https://www.jn.pt/justica/interior/crimes-sexuais-contra-criancas-estao-a-aumentar-em-portugal-5504520.html>.
- ¹⁷ US Department of State (2018), “2018 Trafficking in Persons Report – Portugal”, accessed on 2 August 2018, <https://www.state.gov/j/tip/rls/tiprpt/countries/2018/282733.htm>.
- ¹⁸ Group of Experts on Action against Trafficking in Human Beings (2017), “Report concerning the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Portugal”, §123, accessed on 5 August 2018, <https://rm.coe.int/16806fe673>.
- ¹⁹ Sistema de Segurança Interna (2018, 2017, 2016, 2015), *Op. Cit.*
- ²⁰ Jornal de Notícias (2016), *Op. Cit.*
- ²¹ Economia Online (2018), “Portugal bate recorde ao superar os 20 milhões de turistas em 2017”, accessed on 20 July 2018, <https://eco.pt/2018/02/14/turismo-bate-recordes-em-2017-hospedes-aumentam-89/>.
- ²² ECPAT International (2016), “Global Study on Sexual Exploitation of Children in Travel and Tourism – Regional Report: Europe”, 9 & 24, accessed on 25 July 2018, <http://www.globalstudysect.org/wp-content/uploads/2016/12/Region-EUROPE.pdf>.
- ²³ *Ibid.*, 29.
- ²⁴ The Code, “Members of The Code”, accessed on 19 July 2018, <http://www.thecode.org/who-have-signed/members/>.
- ²⁵ UNICEF (2017), *Op. Cit.*, 184.
- ²⁶ Público (2014), “É ponto assente entre partidos que casamento forçado deverá ser crime”, accessed on 3 August 2018, <https://www.publico.pt/2014/08/27/sociedade/noticia/casamento-forcado-devera-ser-crime-1667697>.
- ²⁷ Assembleia da República (2015), “Projeto de lei n.º 886/XII-4.ª - Estratégia nacional para a proteção das crianças contra a exploração sexual e os abusos sexuais”, accessed on 1 August 2018, <http://app.parlamento.pt/webutils/docs/doc.pdf?path=6148523063446f764c3246795a5868774d546f334e7a67774c336470626d6c7561574e7059585270646d467a4c31684a535339305a58683062334d76634770734f4467324c56684a5353356b62324d3d&fich=pjl886-XII.doc&inline=true>.
- ²⁸ GoP (2017), “Fifth and sixth periodic report of Portugal due in 2017 under article 44 of the Convention of the Rights of the Child”, 6 & 54, accessed on 1 August 2018, https://tbinternet.ohchr.org/_layouts/treatybodyexternal/Download.aspx?symbolno=CRC%2fPRT%2f5-6&Lang=en.
- ²⁹ Diário de Notícias (2018), “OE2019: Governo cria Estratégia Nacional para os Direitos das Crianças”, accessed on 31 October 2018, <https://www.dn.pt/lusa/interior/oe2019-governo-cria-estrategia-nacional-para-os-direitos-das-criancas-10007076.html>.
- ³⁰ Comissão para a Cidadania e a Igualdade de Género (2018), “III Plano Nacional de Prevenção e Combate ao Tráfico de Seres Humanos (2014-2017) - Relatório de execução”, 48, accessed on 1 August 2018, <https://www.cig.gov.pt/wp-content/uploads/2018/07/Relat%C3%B3rio-de-Execu%C3%A7%C3%A3o-Final-do-III-PNPCTSH-2017.pdf>.
- ³¹ Group of Experts on Action against Trafficking in Human Beings (2017), *Op. Cit.*, §22.
- ³² Sapo24 (2018), “PS propõe criação de observatório para aplicação da Convenção dos Direitos da Criança”, accessed on 7 August 2018, <https://24.sapo.pt/actualidade/artigos/ps-propoe-criacao-de-observatorio-para-aplicacao-da-convencao-dos-direitos-da-crianca>.
- ³³ Jornal de Notícias (2018), “Lista de pedófilos com 728 novos nomes em 2018”, accessed on 9 September 2018, <https://www.jn.pt/justica/interior/lista-de-pedofilos-com-728-novos-nomes-em-2018-9706275.html>.
- ³⁴ Público (2017), “Lista de condenados por pedofilia tem dois anos e nunca foi consultada por polícias”, accessed on 2 August 2018, <https://www.publico.pt/2017/11/22/sociedade/noticia/lista-de-condenados-por-pedofilia-tem-dois-anos-e-nunca-foi-consultada-por-policias-1793453>.
- ³⁵ Comissão para a Cidadania e a Igualdade de Género (2018), *Op. Cit.*, 6.
- ³⁶ *Ibid.*, 7.
- ³⁷ Segura Net (2017), “Iniciativa Líderes Digitais”, accessed on 7 August 2018, www.seguranet.pt/pt/iniciativa-lideres-digitais.
- ³⁸ Associação para o Planeamento da Família (2016), “Roteiro da UE para referência sobre o casamento forçado/precoce para profissionais de 1ª linha”, 8, accessed on 28 September 2018, http://www.apf.pt/sites/default/files/media/2017/fem_roadmap_portuguese.pdf.
- ³⁹ For a concrete example, see Público (2018), “Tribunal considera que não se pode obrigar um menor casado a ir à escola”, accessed on 31 July 2018, <https://www.publico.pt/2017/06/18/sociedade/noticia/relacao-do-porto-considera-que-nao-se-pode-obrigar-um-menor-casado-a-ir-a-escola-1775978>.
- ⁴⁰ Expresso (2018), “Inspetores do SEF alertam para “falta de controlo” do tráfico de seres humanos”, accessed on 3 August 2018, <https://expresso.sapo.pt/sociedade/2018-04-19-inspetores-do-sef-alertam-para-falta-de-controlo-do-traffic-de-seres-humanos-1>.
- ⁴¹ Diário de Notícias (2018), “Crime informático dispara. PJ vai reforçar Unidade Nacional”, accessed on 7 August 2018, <https://www.dn.pt/portugal/interior/crime-informatico-dispara-pj-vai-reforcar-unidade-nacional-9221007.html>.

⁴² Público (2018), “*Polícia Judiciária usa tecnologia da Microsoft para combater pornografia infantil*”, accessed on 7 August 2018, <https://www.publico.pt/2018/05/17/tecnologia/noticia/policia-judiciaria-comeca-a-usar-tecnologia-da-microsoft-para-combater-exploracao-infantil-1830394>.

⁴³ US Department of State (2018), *Op. Cit.*

⁴⁴ *Idem.*

⁴⁵ Associação Portuguesa de Apoio à Vítima (2018), “*CARE Plus – Apoio Especializado a Crianças e Jovens Vítimas de Violência Sexual*”, accessed on 9 September 2018, <https://www.apav.pt/publiproj/index.php/87-care-plus>.

⁴⁶ Group of Experts on Action against Trafficking in Human Beings (2017), *Op. Cit.*, §128.

⁴⁷ US Department of State (2018), *Op. Cit.*

⁴⁸ GoP (2017), *Op. Cit.*, 59&60.

⁴⁹ Akto – Associação para a Promoção dos Direitos Humanos e Democracia, “*Centro de Acolhimento e Proteção para Crianças Vítimas de Tráfico de Seres Humanos*”, accessed on 12 September 2018, <http://www.akto.org/pt/o-nosso-trabalho/projecto-cap/>.

⁵⁰ Associação Portuguesa de Apoio à Vítima (2018), “*Projeto Roteiro da UE para a Referenciação de Práticas Tradicionais Nefastas*”, accessed on 28 September 2018, <http://www.apf.pt/projeto-roteiro-da-ue-para-referenciacao-de-praticas-tradicionais-nefastas>.

⁵¹ Ministério Público - Gabinete Cibercrime (2016), “*Inquéritos referentes a pornografia infantil – Primeiro Semestre 2016*”, 4 & 5, accessed on 3 August 2018, http://www.ministeriopublico.pt/sites/default/files/documentos/pdf/pornografia_infantil.pdf;

Ministério Público - Gabinete Cibercrime (2017), “*Relatório da Actividade – Setembro 2015 a Dezembro 2016*”, 10, accessed on 3 August 2018, http://www.ministeriopublico.pt/sites/default/files/documentos/pdf/relatorio_anual_gabinete_cibercrime2015_02-03-2017.pdf.