



## Opening Remarks

Vienna, June 2013

Madame Chair

Excellencies

Ladies and Gentlemen

I am honoured to be here, participating in this important conference of the Alliance, with so many of its partners.

I shall begin by giving you a perspective of the Portuguese situation with regard to trafficking of human beings and other related problems.

As you know, the geostrategic position of my country has been, through the centuries, and still is, an advantage in several fields. We sailed through the world, we reached unbelievable places and we brought to Europe the flavours and the colours of unknown cultures. But our location can also put us in a position of risk regarding the intentions of people that look at us as a door to reach the heart of Europe, by several ways and means.

So, we soon learned to cooperate with countries and organizations to avoid and fight trafficking of all kinds, and specifically trafficking in persons. My country is involved in an intense cooperation, at regional and international levels, on what concerns justice, internal affairs and mixed migrations, always in a human rights perspective. We have been and intend to continue to be a dynamic partner in the Mediterranean region. We are involved in temporary teams, created between the Portuguese security forces and similar services of other countries, in order to solve specific cases, with relevant results<sup>1</sup>.

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<sup>1</sup> In October 2012 it was possible to dismantle a network of criminal association that operated in Portugal, illegal immigration, human trafficking, document forgery, robbery, money laundering, among others. The operation



Being a risk country I would say that we have fewer cases than expected, compared with some of our neighbours. At least, considering our reported data.

Portugal has National Plans against trafficking of human beings since 2007. We are now executing the second Plan until the end of the year and preparing the process of its external evaluation, and the new Plan, for the period of 2014-2016<sup>2</sup>. The Plan is executed by several ministries, public bodies and other partners and annual reports are presented to Parliament.

On the other hand, Portugal has ratified all relevant international instruments on human rights and has laws that provide adequate response to a reasonable level of requirements<sup>3</sup>.

I would say we even have advanced legislation in areas like immigration. Portuguese law concerning entry, permanence, exit and removal of foreigners gained large consensus in Portuguese society and among political parties<sup>4</sup>. The law treats differently situations related to illegal immigration and trafficking in human beings but, in both cases, there is a clear option for the protection of the victims. I think that our law achieved a good balance between the protection of victims and their integration, the promotion of legal migration and the fight against illegal immigration<sup>5</sup>.

We must look after the fragile situation in which these people live, even if they do not fulfill the conditions of legal stay in the country. The law, despite encouraging the victim's cooperation with the criminal investigation, stipulates that the protection of victims does not depend on their collaboration with justice, and allows the grant of an authorization of residence when the victim's personal circumstances justify it, namely when the victims or their families are in special

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involved the Portuguese and Spanish police and Europol. The investigation lasted seven months and ended with 20 detentions.

<sup>2</sup> The Plan is coordinated by the *Commission for Citizenship and Gender Equality*, which is responsible for the promotion of gender equality, being located in the Presidency of The Council of Ministers, and supervised by the *Secretary of State for Parliamentary Affairs and Equality*.

<sup>3</sup> Portugal ratified, on 5th February, the Council of Europe Convention on the prevention and fighting violence against women and domestic violence, becoming the first European Union country to do so.

<sup>4</sup> Law 23/2007 of 4 July 2007 on the legal framework governing the entry, stay, exit and removal of foreigners ("Immigration Law"), which has a section on victims of THB laying down the rules relating to their residence permits, reflection period and rights; this law was amended through Law 29/2012, in force since 8 October 2012.

<sup>5</sup> Portuguese Law doesn't consider crimes the entry and permanence of illegal immigrants.



circumstances in relation to their safety, health or vulnerability<sup>6</sup>. The law establishes a recovery and reflection period between 30 and 60 days<sup>7</sup> which is higher than the 30 days established in the Convention of the Council of Europe. Portuguese law confers several rights to victims before they have a valid residence permit in the country. These rights include, among others, measures to support their living conditions and access to health care<sup>8</sup>.

And we have now in Parliament, soon to be discussed a proposal that will improve the clarity of our Penal Code on the legal framework of the crime of trafficking in persons. I hope that the irrelevance of the consent of the victim of trafficking will be clarified, despite that the basic rule is already established in the general part of the Code, as it, of course, should be. But GRETA recommended us to clarify that point on the specific rule and we are doing that, perhaps sacrificing the best legislative technique for the sake of clarity of the rule.

So, with moderate data<sup>9</sup>, adequate laws, National Plans involving public and private sectors, does it mean that we are comfortable as we are? Does it mean that we live peacefully with our situation? No, we don't!

And we don't because we are aware that the official data on trafficking often doesn't show the whole truth. The secrecy and the oppression in which the victims live, doesn't allow us to see the all picture. We have to look for them among the poorest, the excluded and the exploited migrants. We have to be capable of releasing them from oppression and silence.

And we have reasons to believe that there are organizations, namely NGO's, that do not report cases they are aware of, because they do not want the police to take the case in hands, for fear of not being able to keep them anonymous. It happens mainly with NGO's that help victims of sexual exploitation. This is a problem we have to solve, because we want to have the best possible data, but we understand that these victims must be absolutely safe of any risk of premature exposure.

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<sup>6</sup> Legislative Decree 368/2007 of 5 November 2007 on the conditions for granting a reflection period and a residence permit to victims of THB who are unwilling or unable to co-operate with the justice system.

<sup>7</sup> Article 111, 2 of Law 23/2007.

<sup>8</sup> Article 112 of Law 23/2007.

<sup>9</sup> In 2012 were identified 125 victims of trafficking in human beings.



A few weeks ago we opened the first shelter for male victims, like GRETA recommended us to do in February. It is managed by an NGO, and supported by public financing.

And last Friday, it was officially set up a large network of support and protection to victims of trafficking (RAPVT), which will increase the participation and involvement of NGO's, but also public bodies, namely security forces and labour authorities, to adopt a proactive approach in identification of victims of trafficking<sup>10</sup>, exchanging information and cooperating in several fields.

And we also are not comfortable because our judicial system is not sensible enough to the problem. And knowing that judges are absolutely independent, the least we can do is not giving up on training and alerting them to the dimension and gravity of the problem.

The small number of prosecutions and the even smaller number of convictions on trafficking in human beings<sup>11</sup> show how public prosecutors and judges tend to accuse and to convict, when they do so, for minor crimes, punished with softer penalties, as pimping, support to illegal immigration or criminal association. This is a repeated topic in every evaluation made to our national situation, but I must stress that in an independent judicial system as ours there isn't much that Governments can do about this.

Therefore, I call for the organizations that have the means to act, like the European Union, OSCE and the Council of Europe, to increase efforts to sensitise and train judges and prosecutors, because I believe this is a common problem that we have, at least in Europe.

And we are also worried because the cases of labour exploitation are presently the prevailing ones, either of foreign people in Portugal, or of Portuguese people abroad, which means that the economic crisis we are living in Europe, and very deeply in my country, has a very dangerous potential of increasing trafficking for labour purposes.

We are reacting to this situation, of course. In 2012 and in the first semester of 2013, we have trained all the labour inspectors, to better detect and act in cases of trafficking for labour exploitation.

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<sup>10</sup> 9 Public bodies and 14 NGO's.

<sup>11</sup> In 2009 there were 5 convictions. Regarding accusations promoted in the following years there are still no data.



Although we are living very difficult times, with low salaries in average, and with high unemployment rates, it is amazing how these conditions can still attract others. They arrive absolutely dependent and vulnerable, often with the promise to train in Portugal before travelling to a northern country, where salaries are higher. This is a new form of seducing workers in a position of extreme need.

Let me give you an example: a few weeks ago about fifty people were identified by Portuguese police forces. They had been recruited in two EU countries from the East, to work on farms, picking peas, by a northern European boss. They had seen an announcement on a European site of employment and, apparently, they came knowing all the relevant information about the working conditions and freely. Their final promised land was Denmark, only reachable to the best of them, considering, of course, that the best are the ones who pick more peas in less time.

Perhaps this was not a case with all the ingredients of a crime of trafficking: but is it bearable that women and men submit themselves to be paid by the pound of impeccable peas (if they are not impeccable they will not be paid), having to pay for everything, transportation, home, food, even plates and forks, until the point that they have really nothing to receive after all, or even have to pay their boss? Is this the kind of work we are fighting for?

Without losing sight that trafficking is the main problem we deal with, we must look around and see that several forms of exploitation are increasing around us, exploring in an indecent way the poorest and the most vulnerable among us.

In my country tremendous efforts are being made to reach our adjustment process successfully and I know we are going to achieve it. But let's have no doubts: many Portuguese workers are leaving to look for a better life, but sometimes they only get agony.

Last year, 44 cases of Portuguese citizens, potential victims of human trafficking abroad, were flagged. All the victims were men and were subject to labour exploitation, particularly in Germany (35) and Spain.

There is no doubt that a few are accumulating wealth while many are being exploited with tremendous individual pain and unbearable costs to our equality goals.



So, we sometimes wonder if we are all doing everything we can; if Europe and the world in general are fighting in every possible way the growing labour exploitation; if we are punishing abusers and traffickers as we should.

The engagement shown by OSCE on this fight for justice and for the protection of the human rights of women and men is a remarkable effort. I would like to thank the Special Representative Dr.<sup>a</sup> Maria Grazia for her kind invitation to this Conference, but also for the dedication, the energy, and the quality of her work, that will remain as a mark and a distinction on the relevant role played by the OSCE against trafficking of human beings.

Thank you for your attention!