



# General Assembly

Distr.: General  
12 March 2010

Original: English

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**Human Rights Council**  
**Thirteenth session**  
Agenda item 6  
**Universal Periodic Review**

## **Report of the Working Group on the Universal Periodic Review\***

**Portugal**

**Addendum**

**Views on conclusions and/or recommendations, voluntary commitments and replies presented by the State under review**

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\* The present document was not edited before being sent to the United Nations translation services.

Portugal welcomes the recommendations made during its Universal Periodic Review on 4 December 2009. Of a total of 89 recommendations addressed, Portugal accepted 71, 21 of which had or were being implemented, rejected 1 and deferred consideration on 17. These latter have now been examined and Portugal would like to provide the following responses:

**1. Develop a national human rights plan in accordance with the Vienna Declaration and Programme of Action**

Portugal rejects this recommendation because it cannot at this stage prejudge what will be the outcome of the consultations that will be held on this issue within the future national human rights Commission

Portugal has developed several plans and instruments that implement and promote specific human rights. The absence of a global national human rights plan has not been an obstacle to fulfilling Portugal's obligations and commitments in the field of human rights.

**2. Have the Ministry of Labour and Social Solidarity examine further measures to prevent unlawful child labour, including the possibility of sector-specific enforcement policies that target vulnerable populations, such as Roma street children**

Portugal accepts this recommendation, has implemented it, and will keep the matter under review.

Among the measures taken to eliminate child labour were the creation, in 1998, of a research and statistical framework (SIETI – System of Statistical Information on Child Labour) to provide accurate information on the extent of child labour and the setting up of a policy team (PETI – Programme on the Elimination of Child exploitation) to design and develop concrete interventions and measures to prevent the early entry of children into active life, mainly through the Integrated Program of Education and Training (PETI). Also, as part of its policy to have a more informed debate on child labour, the Government conducted two household surveys in 1998 and 2001.

PETI obtained significant results in the elimination of child labour in the period between 1998 and 2009, leading to the transfer, in September 2009, of its competencies concerning prevention and fight against child labour to the Authority for Working Conditions and to the reinforcement of social inclusion objectives through the creation of PIEC - Programme for Social Inclusion and Citizenship - which continues to develop a wide range of measures to prevent school drop-out and any form of child exploitation.

There has been an extremely positive evolution in this field. In 1997, for every one thousand-inspection visits conducted in vulnerable workplaces, there were 114,23 minors identified, while in 2008 this indicator was very low (0.49). Currently, the number of minors performing illegal work has little expression and the phenomenon is merely residual.

**3. Extend policies and strategies of gender equality to all levels of the public administration, including affirmative measures for women in all ministries**

Portugal accepts this recommendation. Mainstreaming Gender Equality at all levels of the Public Administration is a political commitment, a strategy for achieving Gender Equality and a requisite for good governance.

The III National Plan against Domestic Violence 2007-2010 recommends that gender mainstreaming is applied in all Ministries and foresees the designation of Ministerial Gender Equality Advisers in each Ministry.

A Council of Ministers' Resolution was adopted in 2008 defining the status, profile and competences of the Ministerial Gender Equality Advisers and respective teams. These have also received training by the National Commission for Citizenship and Gender Equality to allow them to integrate a gender equality perspective in policies and actions to be implemented by their Ministry in order to reach a *de facto* gender equality, and also to draw and implement an Action Plan for Gender Equality in their specific policy area.

At the local level, the Commission for Citizenship and Gender Equality (CIG) has been developing Protocols with municipalities aimed at promoting gender equality. These foresee the adoption of Local Plans for Gender Equality and the appointment of Local Equality Advisers and teams.

Other measures include the creation of a Website on Gender Equality, aimed at supporting and promoting the implementation of gender mainstreaming at all levels of the Public administration.

**4. Collect and generate disaggregated data on actual manifestations of racism and discrimination with a view to evaluating the situation regarding different racial, ethnic and minority groups**

Portugal accepts this recommendation in so far as the data to be collected is on actual manifestations of discrimination, including racial discrimination, but not on race and according to what is prescribed in its Constitution. The Portuguese Constitution and law do not allow for the collection and dissemination of statistical data disaggregated by race, ethnic origin or minority groups.

**5. Continue maintain and intensify efforts and ensure the full implementation of legislation regarding violence against women and prosecute and sanction those responsible for such acts in line with the recommendation made by the Committee on the Elimination of Discrimination against Women**

**6. Strengthen its efforts to fully implement legislation on violence against women and children and prosecution and convictions of perpetrators and to ensure that all programmes, projects and measures to combat violence against women also reach Roma women**

Portugal accepts both these recommendations and is already implementing them. Portugal is strongly committed to obtaining better results in law enforcement following the recent improvements in the legal treatment of domestic violence.

The reason for Portugal to have deferred consideration of these recommendations was strictly related to the interpretation to be given to the words “prosecute and sanction”. In fact, according to the Portuguese Constitution and laws, it does not seem adequate or even constitutionally admissible for the Government to give instructions to the Public Prosecution or to the Courts. The principle of separation of powers makes it even less acceptable to direct any instruction to the Courts in order to sanction a specific conduct. Therefore, Portugal accepts these recommendations on the understanding that they are to be interpreted as meaning that the Government accepts to facilitate prosecution and sanction through the enactment and implementation of legislation and other administrative measures.

**7. Continue efforts to combat trafficking in human beings and prosecute traffickers**

Portugal accepts this recommendation, which is already being implemented. As regards the latter part on prosecuting traffickers, Portugal accepts it on the understanding that it is to be interpreted as meaning that the Government accepts to facilitate prosecution and sanction through the enactment and implementation of appropriate legislation and other administrative measures. As mentioned above, it is unacceptable under the Portuguese Constitution and law for the Government to direct any instruction to the Courts in order to sanction a specific conduct.

**8. Strengthen measures to prevent the disproportionate use of force by the police through the incorporation of representatives of ethnic minorities in the security forces and to punish such acts**

Portugal rejects this recommendation. The Portuguese Constitution establishes the Principle of Equality and again reiterates this principle as one of the Fundamental Principles guiding the Public Administration. This principle is therefore fully applied through a horizontal and legally binding approach, encompassing the recruitment and classification of law enforcement officers.

In this regard, there is no specific program for the selection/recruitment of ethnic minority members for the security forces, just as there are no barriers to their entry. All applicants are submitted to the defined requirements and criteria, equal for all citizens, in accordance with the general principles of Equality and Fairness.

Furthermore, we believe that improving the relationships between the security forces and the citizens does not depend on their ethnic origin but on their preparation to deal with specific realities and problems.

For this reason, specific training in this area has been developed by the security forces.

**9. Take further measures to improve the situation in prisons, to provide human rights training to prison personnel and to effectively investigate and prosecute all cases of alleged violence against prisoners**

Portugal accepts the recommendation to improve the situation in prisons and to provide human rights training to prison personnel, which is already being implemented.

Regarding the recommendation to effectively investigate and prosecute all cases of alleged violence against prisoners, Portugal accepts it on the understanding that it is to be interpreted as meaning that the Government accepts to facilitate prosecution and sanction

through the enactment and implementation of appropriate legislation and other administrative measures. This is already being implemented, with all cases of alleged violence being duly investigated by the relevant authorities.

Portugal further notes that the Ombudsman deals with complaints relating to prisons (including alleged violence against inmates) and has carried out several inspection visits to prisons, pursuant to which reports were drafted addressing recommendations to the relevant public authorities. Upon their acceptance and implementation, these recommendations have led to the improvement of the situation of inmates, as well as of penitentiary legislation.

**10. Implement the 2004 guidelines and reforms in the prison system in Portugal and resolve the serious problems in prisons in an expeditious manner**

Portugal accepts the recommendation, and has already implemented it.

Portugal has already put in place the 2004 guidelines and new reforms in the prison system are ongoing. In the new Code for the Execution of Imprisonment Sentences adopted very recently, in October 2009, the separation of detainees is clearly stated according to criteria of his/her legal situation, sex, age, physical and mental health and other factors related to the specialization and individualization of the treatment in prison of the detainees. Consequently, prison facilities or special units will be created to house preventive detainees, first time detainees, detainees under 21 years old or, whenever deemed relevant, under 25 years old.

**11. Continue efforts in relation to the reform of the penal code aimed at reducing the duration of preventive detention and to limit its use in conformity with the principle of presumption of innocence**

Portugal accepts this recommendation.

The Portuguese Criminal Procedure Code has been recently amended (in 2007). One of the objectives of these amendments has been to restrict the use of pre-trial detention, as well as its length. In 2007:

- (i) The scope of crimes to which a pre-trial detention measure can be applied was reduced;
- (ii) The length of pre-trial detention measures was reduced (for example, the maximum length admitted by our law in exceptionally complex cases has been reduced from 4 years to 3 years and 4 months);
- (iii) There has been an important reinforcement of the duty to justify those acts determining the use of pre-trial detention (as well as other coercive measures);
- (iv) Those who have suffered a deprivation of liberty and are proven innocent have a right to reparation.

This reform was closely monitored, for 2 years, by an independent entity, the Permanent Observatory of the Portuguese Justice. The Observatory did not propose to reconsider the length of pre-trial detention measures.

Additionally and as already stated regarding other recommendations, Portugal accepts this recommendation on the understanding that it does not contravene the principle of the Portuguese Constitution and laws that prevents the Government from giving instructions to the Public Prosecution or to the Courts.

- 12. Take additional measures notably in the areas of housing, employment, education and access to social services, particularly to benefit the Roma**
- 16. Strengthen its efforts to integrate Roma communities through positive action in the area of housing, employment, education and social services**
- 17. Continue efforts to promote and protect rights of minorities, especially with regard to the Roma**

Portugal accepts these recommendations and has been implementing them. We will keep the matter under review, in order to increase the consolidation of our current efforts.

The National Action Plan for Inclusion 2008-2010 is the preferred instrument for cross-cutting planning, strategic and operational coordination of policies and measures designed to address the challenges raised by population groups such as the Roma.

Besides this specific approach, the Roma community is increasingly covered by many of the measures for the general population. These include the Social Integration Income, housing programmes, social protection and school social action.

There are also many other programmes and initiatives taken by different Ministries and Public Bodies aimed at supporting the integration of Roma children at school, vocational training and in the labour market, as well as the dissemination of their specific cultural traditions.

The most important are carried forward by the High Commission for Immigration and Intercultural Dialogue, which created in 2007 the Office to Support Roma Communities. Among these, a reference should be made to:

- a Pilot Project for Municipal Roma Mediators with a view to provide, in local municipalities, Roma inclusion related services, guaranteeing the establishment of a close relation between local services and organisations and Roma communities.
- a set of 66 intervention projects within the framework of the Choices Programme, a governmental program which targets children and young people between the ages of 6 and 24 from disadvantaged social backgrounds, including Roma children, in order to promote their social integration.
- a website dedicated to Roma communities [www.ciga-nos.pt](http://www.ciga-nos.pt) focused on disseminating and sharing of useful information on Roma communities, promoting a positive image and a better knowledge of their history and culture.

Regarding the access of members of the Roma communities to the educational system, the Portuguese law not only does not discriminate on the basis of any ethnic factor, but also encourages efforts to integrate all children in the educational system. In this regard, several measures have been taken to facilitate access of specific populations to school, namely cultural mediation, new school approaches directed to children from families with itinerant characteristics, such as the Roma, and increased social support.

**13. Implement additional specific measures with a view to the total eradication of the phenomenon of street children and to ensure conditions for their full enjoyment of all human rights, particularly with regard to health, education, housing, food and others**

Portugal accepts the recommendation and will keep the matter under review.

Since recommendations on this issue were first addressed to Portugal by the Committee on the Rights of the Child in 1995, Portugal developed and implemented a comprehensive policy to address the causes of street children, including through assistance to families and efforts to address concerns with regard to adequate housing and access to education and health care.

As a result, the phenomenon of street children has been gradually losing its expression and, presently, the number of children living on the streets without any type of family support is limited to very few cases, mainly in the city of Lisbon.

In recent years, efforts have been concentrating in the educational sphere through adoption of legal measures to keep children full time at school.

**14. Prepare, in consultation with concerned communities, a national strategy to ensure better integration of the Roma in society**

Portugal accepts this recommendation.

The National Action Plan for Inclusion 2008-2010 already contemplates a mechanism to monitor the degree of integration of Roma communities, with a special emphasis on education, health, employment and housing. It is co-ordinated by the High Commission for Immigration and Intercultural Dialogue.

Furthermore, other measures to answer the concerns expressed in the recommendation are being prepared and will be presented in the near future.

**15. Take appropriate measures to improve the relations between law enforcement officials and the Roma to prevent the risk of excessive violence by law enforcement officials, notably through the establishment of an independent institution responsible for supervising the acts of the police**

Portugal accepts the recommendation, and has already implemented it.

All Portuguese law enforcement personnel is permanently subject to awareness raising actions regarding relevant human rights questions such as racial discrimination, the use of violence and the constitutional and legal principles of necessity, adequacy and proportionality in the performance of its tasks.

Additionally, there is a system in place that offers sufficient guarantees that all alleged cases of torture, ill-treatment and disproportionate use of force by police forces are fully and promptly investigated and that those found guilty are punished.

As regards the establishment of an independent institution responsible for supervising the acts of the Police, Portugal considers that the existing Inspectorate-General of Home Affairs (IGAI), which is the central high level body of inspection and supervision of all the forces and entities of the Ministry of Interior, performs this function with the necessary degree of independence.

It has the power to control the legality, to defend citizens' rights and to investigate all reports brought to its knowledge of serious violation of citizens' rights and carries out inquiries, investigations and disciplinary cases through a complaint or at his own initiative.

In order to insure the necessary independence of his duties, the positions of Inspector-General and of Deputy Inspector-General shall be filled by a senior judge or prosecutor and inspectors shall also be recruited among judges and public prosecutors.

This central high level body of inspection and supervision is to be distinguished from Police forces inspection services', which are internal control entities and perform specific tasks in the administrative, financial and technical areas, reporting to the senior directors of the respective services.

The actions of the Portuguese police forces may also be monitored by the courts and the Portuguese Ombudsman.

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