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ADVISORY COMMITTEE ON THE FRAMEWORK CONVENTION
FOR THE PROTECTION OF NATIONAL MINORITIES

**Opinion on Portugal,
adopted on 6 October 2006**

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EXECUTIVE SUMMARY

Following the receipt of the initial State Report of Portugal on 23 December 2004 (due on 1 September 2003), the Advisory Committee commenced the examination of the State Report at its 22nd meeting from 21 to 24 February 2005. The Advisory Committee adopted its opinion on Portugal at its 27th meeting on 6 October 2006.

Although the State Report states that there are no national minorities in Portugal, the position expressed by the authorities with regard to the scope of application of the Framework Convention has evolved in the course of their dialogue with the Advisory Committee and, in particular, the relevance of Article 6 of the Framework Convention has been recognised. The authorities are encouraged to take further steps in this respect, including engaging in consultations on the Framework Convention with the groups considered ethnic minorities by the authorities.

The Advisory Committee welcomes the authorities' efforts to adopt legislative, institutional and practical measures to combat discrimination and racism. Integration policy, coupled with the promotion of multicultural education, has also remained high on the agenda. Moreover, measures have been taken to improve the socio-economic and educational situation of the Roma. However, a large number of Roma are still at a disadvantage in this respect. They are also often confronted with discrimination, social exclusion and marginalisation.

Further measures should be developed, in co-operation with the persons concerned, to promote the full and effective equality of the Roma, in particular in the fields of housing, education, employment and health and to continue to combat prejudice and hostility against them.

I. PREPARATION OF THE CURRENT OPINION

1. The initial State Report of Portugal (hereinafter: the State Report), due on 1 September 2003, was received on 23 December 2004. The Advisory Committee commenced the examination of the State Report at its 22nd meeting, from 21 to 24 February 2005.
2. In the context of this examination, the Advisory Committee identified a number of points on which it wished to obtain fuller information. A questionnaire was therefore sent to the authorities on 9 December 2005. The Government's reply to this questionnaire was received on 10 March 2006.
3. In preparing this opinion, the Advisory Committee held, on 12 September 2006, a meeting in Strasbourg with representatives of the Office of the High Commissioner for Immigration and Ethnic Minorities of Portugal. The Advisory Committee also consulted a range of written materials from various Council of Europe bodies, other international organisations, NGOs and other independent sources.
4. The Advisory Committee subsequently adopted this opinion at its 27th meeting, on 6 October 2006, and decided to transmit it to the Committee of Ministers¹.
5. The present opinion is submitted pursuant to Article 26 (1) of the Framework Convention, according to which, in evaluating the adequacy of the measures taken by the Parties to give effect to the principles of the Framework Convention, "the Committee of Ministers shall be assisted by an advisory committee", as well as pursuant to Rule 23 of Resolution (97) 10 of the Committee of Ministers, according to which the "Advisory Committee shall consider the state reports and transmit its opinion to the Committee of Ministers".

¹ The Advisory Committee decided, at its 12th meeting on 30 November 2001, to introduce certain changes to the structure of its opinions. It decided to discontinue the practice of submitting a "Proposal for conclusions and recommendations by the Committee of Ministers" (Section V of the earlier opinions) and to introduce a new Section IV, entitled "Main findings and comments of the Advisory Committee". The Advisory Committee also decided to submit its "Concluding remarks" in Section V instead of Section IV. These changes are effective as from 30 November 2001 and they apply to all subsequent opinions adopted in the first monitoring cycle. These changes have been made in the light of the first country-specific decisions on the implementation of the Framework Convention adopted by the Committee of Ministers in October 2001.

II. GENERAL REMARKS

6. The Advisory Committee notes that the State Report, submitted 15 months late, contains limited information on the situation of persons belonging to minorities in Portugal and on the related policies of the Government. It essentially provides information on the position of the Portuguese authorities with regard to the personal scope of application of the Framework Convention. The authorities state in the State Report that no groups are to be protected under the Framework Convention.

7. More substantial information was provided to the Advisory Committee in a comprehensive reply submitted by the Government to questions posed by the Advisory Committee. The Advisory Committee also received additional information from the Office of the High Commissioner for Immigration and Ethnic Minorities. In the course of the dialogue between the Advisory Committee and the Portuguese authorities, the latter also acknowledged the relevance of article 6 of the Framework Convention in the case of Portugal.

8. While welcoming the fact that additional information was provided, the Advisory Committee regrets that the Office of the High Commissioner for Immigration and Ethnic Minorities, and a number of other relevant governmental structures, were not involved in the preparation of the State Report drawn up by the Ministry of Foreign Affairs. Furthermore, the authorities informed the Advisory Committee that representatives of the potentially interested parties, as well as independent bodies working in the field of human rights protection, were not consulted either. The Advisory Committee urges the Portuguese authorities to organise such consultations in the future when preparing the State Report.

9. The Advisory Committee regrets that it was not in a position to make use of the possibility, in accordance with rule 32 of Resolution (97) 10, of visiting Portugal, to meet the relevant representatives of the government and of civil society, despite having indicated its readiness to do so on several occasions. The Advisory Committee considers that a visit would have allowed direct dialogue with representatives of various sources and would have helped the Advisory Committee prepare and adopt its opinion in the best possible circumstances. Nevertheless, the Advisory Committee welcomes the fact that the authorities accepted at a later stage to participate in a meeting held in Strasbourg with representatives of the Advisory Committee. This meeting took place on 12 September 2006 and two representatives of the High Commissioner for Immigration and Ethnic Minorities participated in it. The Advisory Committee believes that the meeting, while not nearly as comprehensive as visits organised in other State Parties, was a useful opportunity to obtain more information and clarifications and to intensify dialogue with the Portuguese authorities.

10. In view of the absence of a visit to Portugal and of dialogue with the persons who could potentially benefit from the protection of the Framework Convention, the Advisory Committee finds it appropriate to examine measures taken by the Portuguese authorities in respect of such persons only in the light of Articles 4 and 6 of the Convention, as most of the information at its disposal is related to the fight against discrimination and the promotion of a tolerant and multicultural society. In this connection, the Advisory Committee refers to its comments concerning the personal scope of application of the Framework Convention in relation to Article 3 below.

11. In the following part of the opinion, it is stated in respect of a number of articles that, based on the information currently at its disposal, the Advisory Committee considers that implementation of the article at issue does not give rise to any specific observations. The Advisory Committee wishes to make clear that this statement is not to be understood as signalling that adequate measures

have now been taken and that efforts in this respect may be diminished or even halted. In the present case, the possibility to comment on a number of articles was further affected by the fact that the Advisory Committee did not have sufficient information on policies and measures taken under these articles or on the position of minorities potentially concerned as regards the applicability of these articles. Furthermore, a certain state of affairs may, in the light of the recent entry into force of the Framework Convention, be considered acceptable at this stage but that need not necessarily be so in further cycles of monitoring. Finally, it may be the case that issues that appear at this stage to be of relatively minor concern prove over time to have been underestimated.

III. SPECIFIC COMMENTS IN RESPECT OF ARTICLES 1-19

Article 1

12. The Advisory Committee notes that Portugal has ratified a wide range of relevant international instruments. Based on the information currently at its disposal, the Advisory Committee considers that implementation of this article does not give rise to any further observations.

Article 2

13. Based on the information currently at its disposal, the Advisory Committee considers that implementation of this article does not give rise to any specific observations.

Article 3

14. The Advisory Committee underlines that in the absence of a definition in the Framework Convention itself, the Parties must examine the personal scope of application to be given to the Framework Convention within their country. The position of the Government of Portugal is therefore deemed to be the outcome of this examination.

15. Whereas the Advisory Committee notes, on the one hand, that Parties have a margin of appreciation in this respect in order to take the specific circumstances prevailing in their country into account, it notes, on the other hand, that this must be exercised in accordance with general principles of international law and the fundamental principles set out in Article 3 of the Framework Convention. In particular, it stresses that the implementation of the Framework Convention should not be a source of arbitrary or unjustified distinctions.

16. For this reason, the Advisory Committee considers that it is part of its duty to examine the personal scope given to the implementation of the Framework Convention in order to verify that no arbitrary or unjustified distinctions have been made. Furthermore, it considers that it must verify the proper application of the fundamental principles set out in Article 3 of the Framework Convention.

17. The Advisory Committee notes in the State Report that the concept of “national minorities” does not exist in the Portuguese constitutional order. The Advisory Committee also notes that the authorities take the view in the State Report that no groups are to be protected under the Framework Convention in Portugal. They state that persons belonging to different ethnic, cultural or linguistic groups (see paragraph 19 below) are excluded from the personal scope of application of the Convention. Portugal’s ratification of the Framework Convention was, according to the Portuguese State Report, conceived “as an act of political solidarity”, although no declaration in this respect was made by Portugal at the time of ratification.

18. The Advisory Committee welcomes the fact that, while adopting the position described above with regard to the scope of application of the Framework Convention, the Portuguese authorities expressed a more open approach in further dialogue with the Advisory Committee, and recognised the relevance of Article 6 of the Framework Convention in respect of Portugal, in view of the growing cultural diversity of Portuguese society resulting from immigration.

19. Notwithstanding the official position expressed by the Portuguese authorities with regard to the scope of application of the Framework Convention, the Advisory Committee notes that in the

State Report, as well as in further dialogue with the authorities, extensive information was provided on various ethnic and cultural groups living in Portugal and designated in the State Report as “ethnic”, “linguistic” or “cultural minorities”, such as the Roma minority², the Mirandese-speaking persons³ and groups resulting from immigration in Portugal⁴. The Advisory Committee further observes that institutions have been set up to meet the specific needs of these groups, such as the Office of the High Commissioner for Immigration and Ethnic Minorities (ACIME in Portuguese, set up in 1996 and hereinafter referred to as ACIME)⁵. A number of national and local programmes, which reflect many of the principles contained in the Framework Convention, have also been developed to tackle problems facing persons belonging to these ethnic or cultural minorities.

20. The Advisory Committee acknowledges the official position of the Portuguese authorities in respect of the concept of national minority. However, throughout its practice, the Advisory Committee has stressed that the application of the Framework Convention does not require the formal recognition or use of the term “national minority” in the domestic legal order. The Framework Convention was in fact conceived as a pragmatic tool, to be implemented in very diverse legal, political and practical situations. The Advisory Committee therefore believes that the non-recognition of the concept of national minorities should not prevent the Portuguese authorities from considering extending the protection of the Framework Convention to persons belonging to ethnic, linguistic and cultural minorities in Portugal. The Advisory Committee also considers that it is its duty to examine, in the light of the Framework Convention, the existing policies and measures designed to improve the situation of the ethnic, linguistic and cultural minorities living in Portugal.

21. Moreover, the Advisory Committee notes that the reluctance of the Portuguese authorities to consider applying the Framework Convention to persons belonging to ethnic, cultural or linguistic minorities stems from the belief that the Convention is essentially addressing the needs of minorities residing in substantial numbers on specific territories, whereas such minorities do not, according to the authorities, exist in Portugal. The Advisory Committee wishes to draw attention to the fact that the application of most of the provisions of the Convention, such as the prohibition of discrimination, the principles of full and effective equality and of effective participation and the need to promote tolerance, does not imply a territorial dimension or require that the minorities concerned live compactly. Therefore, it believes that the Portuguese authorities should not consider the fact that minorities are dispersed as a reason to entirely deny them the protection of the Framework Convention.

22. As mentioned in the General Remarks, the Advisory Committee underlines that, in the absence of a visit to Portugal, it did not have an opportunity to meet with persons belonging to ethnic, cultural or linguistic minorities in Portugal, including in particular Roma and Mirandese-speaking persons, and therefore it was not able to exchange views on whether they would wish to benefit from the Framework Convention. Moreover, the authorities informed the Advisory Committee that they did not consult persons belonging to minorities on this issue either. Therefore, it is not possible for the Advisory Committee to conclude whether it would be appropriate or inappropriate for persons belonging to these groups to be included in the scope of application of the Convention, although information at the Advisory Committee’s disposal suggests that the situation of Roma merits particular attention in this respect.

² Estimated number of Roma living in Portugal: between 40,000 and 60,000.

³ Various sources indicate that between 6,000 and 15,000 persons (including those using the language sporadically) continue to speak Mirandese in the region of Miranda do Douro, in the North of Portugal.

⁴ Around 450,000 persons, or about 4-5% of the population.

⁵ In 1996, the Portuguese authorities created a post of High Commissioner for Immigration and Ethnic Minorities, designated as ACIME. In 2002, the mandate of ACIME was enlarged and the post of High Commissioner was transformed into a body in charge of immigration and ethnic minority issues but also into an umbrella institution for various other institutions dealing with a number of migration and minority related issues.

23. The Advisory Committee is of the opinion that, if persons belonging to minorities were to express interest in the protection afforded by the Framework Convention in the context of a dialogue with the authorities, this possibility should not be ruled out and the protection of the Convention should not be denied to them *a priori*. Consequently, the Advisory Committee urges the Portuguese authorities to engage in consultations with those potentially concerned by the protection of the Framework Convention.

24. Despite the absence of information regarding the position of persons belonging to minorities with regard to the protection of the Framework Convention, as described in paragraph 22 above, the Advisory Committee notes that the authorities have provided extensive information on measures to combat discrimination and to promote multiculturalism. As a consequence, the Advisory Committee finds it appropriate to examine measures taken by the Portuguese authorities in respect of such persons in the light of articles 4 and 6 of the Convention.

Article 4

25. The Advisory Committee welcomes the strong commitment expressed by the Portuguese authorities to combat discrimination. It welcomes the efforts made during recent years to develop the anti-discrimination legal framework, especially through the adoption in 1999 of Law N°134/99 which prohibits discrimination in the exercise of rights on grounds of race, colour and ethnic or national origin and, therefore, complements the constitutional equality guarantee (contained in Article 13 of the Portuguese Constitution). It also notes that measures were taken to transpose the EU Directive 2000/43/CE in Portuguese law in 2004 (Law 18/2004) and that ACIME, which integrates the Commission for Equality and against Racial Discrimination (CICDR, set up in 1999), was designated as the required special body for promoting equality on grounds of ethnicity and race. The labour legislation was revised in 2003; it reflects the principles of EC Directive 2000/78/CE and prohibits all forms of discrimination in the field of employment. Furthermore, the Ombudsperson's Office (Provedor de Justiça) is operating since 1975 and has been dealing with cases related to equal opportunities for immigrants and racial discrimination.

26. However, according to information received by the Advisory Committee, there remain gaps in the implementation of the anti-discrimination legislation, despite the existence of a comprehensive set of legal and practical tools to fight discrimination. The jurisprudence linked to discrimination cases is very limited: it seems that some victims of racial discrimination have limited awareness of their rights and limited confidence in the law enforcement agencies and the justice system. Further efforts should be made to raise awareness among the judiciary on discrimination-related issues. Initiatives to disseminate information among the population at large, including persons belonging to ethnic minorities, on human rights and remedies to racial discrimination, should also be pursued.

27. The Advisory Committee was also informed by the authorities that the procedure set up by Law 18/2004, by which ACIME is to impose sanctions in cases of administrative discrimination, based on an opinion to be delivered by the Commission for Equality and against Racial Discrimination, has not, as yet, proved to be very effective. Moreover, with ACIME placed directly under the authority of the Prime Minister, the impact of actions taken by the Commission for Equality and against Racial Discrimination risks being diminished because of lack of independence with regard to the Government, although the Advisory Committee was informed by the authorities that no problems in this respect have so far been reported. The Advisory Committee encourages the authorities to seek ways of ensuring that the complaints procedure before the Commission for Equality and against Racial Discrimination is made more accessible and effective. It also invites the

authorities to secure over time the effective independence of the Commission for Equality and against Racial Discrimination.

28. While it is aware of the reluctance regarding ethnic data collection in Portugal, the Advisory Committee stresses that the absence of reliable data on the situation of minorities complicates the development of suitable policies to advance equal opportunities of persons belonging to minorities, as well as the prevention of racial discrimination. Very little information is available on the position of ethnic minorities in areas such as housing, education and employment because Law 67/98 of 1998 regarding the collection, processing and communication of sensitive personal data is interpreted by the authorities as impeding the collection of any ethnic data. The Advisory Committee is also informed that, in view of the lack of data based on ethnic origin, providing statistical evidence of discrimination before a court remains a challenge.

29. The Advisory Committee notes that this view is shared to some extent by the Portuguese authorities, as they informed the Advisory Committee that the absence of a national study on the Roma population hampers a more rigorous analysis of their situation⁶. The Advisory Committee also notes that, according to the information available, a research project is being implemented under the leadership of ACIME with a view to gathering data on the demographic and economic situation of Roma in Portugal and that data are collected on Roma in the educational system. The Advisory Committee strongly encourages the authorities to collect further information on the situation of ethnic minorities, on a regular basis, and it emphasises the fact that methods exist whereby such data could be collected while ensuring the protection of personal data. It also urges the authorities to ensure that the right of the individuals concerned freely to choose to be treated or not to be treated as a person belonging to a minority is fully respected when collecting data on the demographic, economic and educational situation of ethnic groups (for example the Roma). This right is enshrined in Article 3 of the Framework Convention.

30. The Advisory Committee acknowledges the efforts made by the authorities to improve the situation of Roma. It observes that projects and programmes have been put in place to tackle problems in the field of education (through setting up a network of cultural mediators for instance), housing (through the resettlement and accommodation programmes started in 1993) and access to employment (training/retraining courses and other programmes targeting vulnerable groups, in partnership with the employment services). However, despite these laudable efforts, information provided to the Advisory Committee shows, even in the absence of detailed statistical data in this respect, that persons belonging to the Roma minority seem to be particularly at a disadvantage in areas such as housing, education and access to employment in comparison with the majority population.

31. The Advisory Committee is disconcerted by reported practices of grouping Roma students together in one class, with worse schooling conditions (see also remarks in respect of Article 6). Although the latter practices sometimes result from the willingness of the parents themselves or from an intention to solve specific problems, the Advisory Committee is of the opinion that practices of separation are not contributing to improving achievement levels and are potentially harmful to community relations⁷. The limited data on the position of Roma in the education system also show that most Roma pupils do not continue their studies beyond primary education. Their

⁶ ACIME expresses similar views in its Activity Report 2002-2005, p.148 : “Real knowledge of the Gypsy/Roma community situation is an immediate necessity. Only by really knowing the community and by being able to present concrete data concerning its situation we will be in a situation to sustain viable projects and partnerships that meet its real problems.”

⁷ See Commentary on Education under the Framework Convention for the Protection of National Minorities, ACFC/25DOC(2006)002, Strasbourg, 2 March 2006.

representation in secondary and higher education is very low. Roma pupils have higher rates of drop-out and absenteeism than pupils from the majority population. This is even more so for Roma girls and young women, who often drop out of school at a very early stage. While acknowledging the attention paid by ACIME to problems facing Roma at school⁸, the Advisory Committee is concerned about this situation and urges the Portuguese authorities to take further measures to meet the specific needs of Roma pupils, so as to ensure equal opportunities in education. The result of initiatives, such as the placement of Roma cultural mediators in schools, the possibility to apply flexible curricula and the creation of Priority Intervention Educational Areas⁹ should, in this context, be carefully assessed and, where appropriate, further developed. Participation of Roma children in pre-school education should also be further supported.

32. The Advisory Committee is also informed of the persisting difficulties facing those Roma engaged in itinerant trade, a traditional occupation in this community which is increasingly discouraged by local authority regulations and law enforcement authorities. In so far as itinerant trade is still an important source of income for part of the Roma population, the Advisory Committee invites the authorities to ensure that no undue obstacles are placed to the practice of itinerant trade. It also encourages ACIME to pursue their commendable efforts to promote dialogue between the persons involved in itinerant trade and local authorities.

33. While taking note of the efforts made to improve the socio-economic and educational situation of Roma, the Advisory Committee strongly urges the Portuguese authorities to further develop long-term programmes targeting persons belonging to the Roma minority specifically and aiming at ensuring equal opportunities in different areas. The assumption by the authorities that the equality guarantee ensures that all citizens can equally benefit from existing social programmes, without a need for specific or targeted measures, can, in the view of the Advisory Committee, hamper efforts to combat discrimination and even lead to further indirect discrimination, as the most vulnerable persons are often too marginalised to be reached through programmes aimed at the population as a whole; as a result, they sometimes “fall through the net”. The Advisory Committee recalls that temporary measures targeting specific ethnic groups in order to restore equality of opportunities shall not be considered to be an act of discrimination. The Portuguese Labour Code (see in particular its article 25), as well as Law 99/134 on the prohibition of discrimination, allow for such measures.

34. Moreover, the Advisory Committee notes that, in the Portuguese National Action Plans against Poverty and Social Exclusion, measures to improve the socio-economic situation of the Roma are mentioned, although not in a very detailed manner. The Advisory Committee encourages the authorities to further integrate and mainstream Roma issues in nation-wide social policies.

Article 5

35. Based on the information currently at its disposal, the Advisory Committee considers that implementation of this article does not give rise to any specific observations.

⁸ See the Guidelines, prepared by ACIME, for ensuring equal opportunities for the Roma, which contain specific recommendations regarding education.

⁹ In certain areas with a high concentration of persons belonging to ethnic minorities, possibilities are given to take greater account of the social context and of a diverse environment, thus allowing more flexibility to adapt the official curricula and programmes to the different needs of the pupils concerned.

Article 6

36. The Advisory Committee takes note of the general climate of tolerance and openness prevailing in Portuguese society. It also notes that Portugal made a rapid move from being a country of emigration to becoming a country of immigration. The Advisory Committee welcomes the fact that, since the 1990s, successive governments started to put the issue of integration of immigrants higher on their agenda. Efforts have been made by the authorities to facilitate the integration of newcomers, combat discrimination, accommodate diversity and promote intercultural learning through the development and implementation of integration policies.

37. New institutional arrangements have been put in place to respond to the need to promote integration and equal opportunities. ACIME had its mandate enlarged and its capacity reinforced in 2002, in order to manage new challenges linked to growing diversity in Portugal. A Consultative Council for Immigration Issues (COCAI) was created in 1998, tasked with representing immigrant organisations in policy-making on integration and immigration-related legislation.

38. Moreover, a new law on nationality was adopted in 2006 that widens possibilities for children of immigrants to obtain Portuguese citizenship, which could bolster the effects of ongoing integration policies. The Advisory Committee welcomes these positive developments.

39. The legislative and institutional framework to combat discrimination and to promote integration was usefully complemented by a series of government-led practical and innovative projects, such as *inter alia* the creation of a support unit for immigrants who are victims of racial or ethnic discrimination (UAVIDRE); a nation-wide network of information in various languages; a call centre for immigrants; and an Observatory on immigration, in charge of carrying out studies on the situation of immigrants, racism and stereotypes.

40. Information provided to the Advisory Committee indicates that these efforts seem to have a varying impact on different groups of immigrants depending on their country of origin and date of arrival in Portugal. The Advisory Committee therefore invites the authorities to monitor the consequences of integration policies for different groups of immigrants.

41. The Advisory Committee notes that the legislation on education¹⁰ stipulates that education has, as a mission, to promote the value of diversity and ensure equality of opportunities for all. The role of intercultural education is increasingly emphasised in the Portuguese educational system. In this context, the Advisory Committee welcomes the creation of the Office “Entreculturas” (“between cultures”) in 1991 in order to disseminate knowledge on minority cultures among the population at large, with a view to helping the Portuguese society adapt to growing cultural diversity and to promoting better relations between different groups. “Entreculturas” is also working towards integration in school of Roma children and children of immigrant families.

42. The Advisory Committee also commends the creation, in 2000, of posts of socio-cultural mediators with a view to facilitating relations between persons belonging to ethnic minorities and schools, social and health services and services dealing with immigrants. Nevertheless, the Advisory Committee was informed that the possibility to recruit mediators is underused and many of the posts of mediators remain vacant because of the precarious conditions attached to them. The Advisory Committee urges the Portuguese authorities to find remedies to the current problems encountered by socio-cultural mediators, so as to make full use of this potentially worthwhile tool to improve community relations, particularly with regard to the Roma minority.

¹⁰ Framework Law on Education of 1986.

43. However, despite efforts made by the authorities and a number of NGOs active in the field of education, information provided to the Advisory Committee shows that intercultural education is still not sufficiently developed in the educational system. The Advisory Committee notes that, often, teachers are not adequately trained to deal with multiethnic audiences and that textbooks do not contain enough elements on minority cultures, especially concerning Roma culture and traditions, although efforts are being made in this respect. Research, academic studies and project evaluations which were brought to the attention of the Advisory Committee highlight the deficit in intercultural education as one of the root causes for under-achievement in the school system of Roma and immigrant children. As a consequence, the Advisory Committee encourages the Portuguese authorities to continue to promote intercultural learning in the educational system, including by making textbooks more sensitive to ethnic diversity and by introducing further teacher training in this respect.

44. The Advisory Committee welcomes initiatives led by ACIME to raise awareness on cultural diversity through the media, such as the TV programme “Nós”, whose objective is to disseminate knowledge on the various cultures present in Portugal. The Advisory Committee is also informed that the private TV station “SIC” broadcasts a weekly programme for immigrants (“Etnias”) and that programmes in Russian and Ukrainian languages are broadcast on local radio stations. There is also a substantial number of newspapers prepared by and for the immigrants and ethnic communities in Portugal, although to the knowledge of the Advisory Committee, no public support is provided for the creation of minority media outlets or programmes.

45. In the light of the information available to it, the Advisory Committee observes that persons belonging to the Roma minority have reduced access to the media and that their preoccupations do not seem to be adequately covered by existing programmes. The Advisory Committee therefore invites the Portuguese authorities to look for appropriate solutions - including financial support - in order to give Roma better access to the media.

46. The Advisory Committee also notes that limited attention is paid to the preservation of Roma culture and that, consequently, measures to support the preservation and development of Roma culture, language and traditions are very limited. Therefore, the Advisory Committee invites the authorities to consult the persons concerned on their possible needs in this respect and to envisage providing support to the efforts of persons belonging to the Roma minority to preserve their culture.

47. The Advisory Committee is deeply concerned by the fact that the ethnic identity of alleged perpetrators of criminal acts is often unnecessarily mentioned in press articles, especially in cases involving persons of Roma and immigrant origin. The Advisory Committee is also informed that, in general, immigrants, whether from African countries, Brazil or Eastern Europe and Roma are very often negatively portrayed and associated in the media with crime¹¹. Roma, in particular, are very often associated in the media with drug dealing. The Advisory Committee believes that such practices are reinforcing stigmatisation and prejudices against Roma and immigrants. It therefore strongly supports the public statement issued by ACIME in April 2006 inviting law enforcement agencies and the media to refrain from releasing information on the ethnicity, nationality or religion of suspects or perpetrators. The statement encourages the media to reflect on the relative importance and the treatment they give to the subject of irregular immigration. It also tasks the Commission for

¹¹ In June 2005, for instance, most media reported about an alleged massive robbery on a beach in Carcavelos near Lisbon, supposedly committed by a group of about 500 black youngsters of immigrant origin. The event prompted a nation-wide reaction and a debate on the links between immigration and violence. A few days later, it appeared that the facts reported by the media were incorrect. See: SOS Racismo, Imprensa 2005 and ACIME.

Equality and against Discrimination to remind those contravening the statement of the principles contained in it. The Advisory Committee encourages the authorities to pursue and further develop similar actions, in line with Committee of Ministers' Recommendation N° R (97) 21 on the media and the promotion of a culture of tolerance. The Advisory Committee also calls on the authorities to consider ways of counteracting the dissemination of prejudices against Roma in the media, for instance by promoting the introduction of specific training on Roma culture in journalism schools.

48. Information provided to the Advisory Committee reveals that, although they are not very numerous in Portugal, racist and skinhead movements have been increasingly active in recent years¹², fomenting racial hatred and sometimes committing racially-motivated violence. The Advisory Committee also takes note with concern of reports indicating the existence, both among the population and on the part of certain authorities, of attitudes of rejection and hostility, often stemming from stereotypes and prejudices, especially based on the colour of the skin and towards Roma. The Advisory Committee invites the authorities to carefully monitor the development of racist and extremist movements and to make full use of existing legislative provisions to tackle this problem and prevent the movements from strengthening further. The Advisory Committee also invites the authorities to continue to design and implement information programmes aiming at countering stereotypes and prejudices against persons of immigrant and Roma origin.

49. Moreover, the Advisory Committee takes note of the absence of official data on racially-motivated crime, which indicates, on the one hand, that racially motivated violence and crime remain relatively rare in Portugal but can, on the other hand, hinder proper monitoring of this phenomenon. Therefore, the Advisory Committee urges the authorities to put mechanisms in place to ensure the proper recording and data collection of racially motivated violence and crime and to ensure that these crimes are thoroughly investigated. It also supports ECRI's recommendation in 2002¹³ to adopt a provision rendering racial motivation an aggravating circumstance for all types of offences.

50. The Advisory Committee is concerned about reports of often tense relations between persons belonging to ethnic minorities and law enforcement officials. Cases of harassment, ill-treatment and excessive use of force by the police in relation to persons of immigrant and Roma origin continue to be reported despite efforts made by the authorities to improve police training on human rights. Therefore, the Advisory Committee strongly urges the Portuguese authorities to identify appropriate remedies to these problems and to pursue their efforts to improve training of law enforcement personnel on the use of firearms, the prevention of ill-treatment and torture. The Advisory Committee also urges the authorities to ensure that cases of abuse by the police are thoroughly and independently investigated and adequately punished and to further promote respect for the code of ethics of the police. It also recommends the adoption of measures to improve relations between the police and persons belonging to ethnic minorities, through *inter alia* making wider use of social mediators and recruiting persons belonging to ethnic minorities in the police forces.

51. The Advisory Committee is concerned by the fact that, according to the information it received, a large proportion of the Roma population, as well as persons from immigrant background, continue to live in segregated urban areas, often in substandard conditions, despite efforts made through successive rehousing programmes¹⁴. The Advisory Committee is also disconcerted by reports concerning repeated attempts by local authorities to forcefully evict Roma

¹² Despite the fact that "fascist" organisations and movements were banned by Law 64/78.

¹³ ECRI, 2nd report on Portugal, adopted on 20 March 2002 [CRI (2002) 33].

¹⁴ Public housing programmes have been carried out with a view to providing decent accommodation to persons living in shanty towns around Lisbon and Oporto.

and expel them from town centres using various forms of pressure and without providing adequate alternative accommodation. The Advisory Committee strongly urges the Portuguese authorities to ensure thorough investigation of such incidents and to promote adequate solutions to Roma housing problems in consultation with the persons concerned. It stresses the importance of Recommendation Rec(2005) 4 of the Committee of Ministers on improving the housing conditions of Roma and Travellers in Europe, including its provisions pertaining to evictions and the need to provide alternative accommodation in eviction situations. The Advisory Committee also invites the authorities to further develop awareness among the local authorities on human rights issues and to provide advice and assistance wherever needed in order to solve problems in the field of community relations.

52. The Advisory Committee is also deeply concerned by reported cases of exclusions of Roma children from classes and schools, under pressure of other pupils' parents, or their being placed in a separate class (see also remarks in respect of Article 4). The Advisory Committee stresses that the exclusion of children from classes based on their ethnicity is unacceptable and it urges the authorities to continue to strongly condemn any such incidents and to take adequate measures to prevent them from re-occurring.

53. Furthermore, the Advisory Committee stresses that in cases of conflicts at local level regarding accommodation or schooling, it appears that the Roma concerned were not constructively involved in the search for solutions to the problems. In fact, the Advisory Committee notes that the social and economic problems facing persons belonging to the Roma minority, coupled with attitudes of hostility and rejection, make their effective participation in public affairs as well as in the social, economic and cultural spheres very difficult. Although they are represented in participative structures, such as the councils of communities in the cities of Lisbon and Porto, and despite ACIME's co-operation with Roma associations, they are not sufficiently involved in decision-making, including on issues which affect them. Therefore, the Advisory Committee invites the authorities to set up, at national and local level, appropriate and efficient consultation and participation arrangements in order to ensure effective participation of the Roma in decision-making concerning them and more generally, in public affairs and socio-economic life.

Article 7 to 19

54. Based on the information currently at its disposal, the Advisory Committee considers that implementation of these articles does not give rise to any specific observations.

IV. MAIN FINDINGS AND COMMENTS OF THE ADVISORY COMMITTEE

55. The Advisory Committee believes that the main findings and comments set out below, could be helpful in a continuing dialogue between the Government and national minorities, to which the Advisory Committee stands ready to contribute.

In respect of Article 3

56. The Advisory Committee *finds* that, according to the authorities, there are no national minorities in Portugal and that, therefore, persons belonging to ethnic, cultural or linguistic minority groups cannot benefit from the protection of the Framework Convention, although the situation of some of them, and in particular of the Roma, merits particular attention in this respect. The Advisory Committee stresses that the application of the Framework Convention does not require the formal recognition or use of the term “national minority” in the domestic legal order. Therefore, the Advisory Committee *considers* that the authorities should further examine the question of the personal scope of application of the Framework Convention and engage in consultations with those potentially concerned on the relevance of the Framework Convention, in particular with the groups considered ethnic, linguistic and cultural minorities by the authorities.

In respect of Article 4

57. The Advisory Committee *finds* that the existing anti-discrimination provisions in Portuguese legislation are not sufficiently used in practice and that there is a lack of awareness of discrimination-related issues, both among the judiciary and in the population at large, including among potential victims of discrimination. The Advisory Committee further *finds* that the complaint procedure before the Commission for Equality and against Racial Discrimination is not sufficiently effective in acting against cases of administrative discrimination and it *considers* that the authorities should examine ways of improving its accessibility and effectiveness. It also *considers* that the authorities should secure over time the effective independence of the Commission for Equality and against Racial Discrimination.

58. The Advisory Committee *finds* that the current lack of information on the socio-economic and educational situation of persons belonging to ethnic, cultural and linguistic groups complicates the prevention of racial discrimination and the development of suitable policies to ensure full and effective equality of persons belonging to minorities. The Advisory Committee *considers* that the authorities should therefore make a concerted effort to identify further means of obtaining reliable data on the situation of persons belonging to minorities, while ensuring that the necessary safeguards for protecting personal data are in place.

59. The Advisory Committee *finds* that persons belonging to the Roma minority seem to be under-achieving at school, that they seem to have higher drop-out and absenteeism rates and that they are sometimes placed in separate classes. It also *finds* that undue obstacles are often placed in the way of those Roma practising itinerant trade. In general, the Roma are at a disadvantage in comparison with the population at large in areas such as housing, employment and education, despite measures already taken by the authorities in this respect. Therefore, the Advisory Committee *considers* that the authorities should develop further specific measures to improve the socio-economic situation of the Roma and narrow the gap identified in the field of education.

In respect of Article 6

60. The Advisory Committee *finds* that considerable efforts have been made by the authorities to facilitate the integration of immigrants, while combating discrimination against them and promoting the values of multiculturalism, especially in the education system. However, the Advisory Committee *finds* that the lack of sensitivity within the education system to diversity is still perceived as one of the main causes of under-achievement among children of immigrant and Roma background. The Advisory Committee *considers* that efforts to adapt schools to Portugal's increasingly diverse society should be actively pursued.

61. The Advisory Committee *finds* that immigrants and Roma are often negatively portrayed in the media and associated with crime and that the ethnicity of perpetrators, when they are of Roma or immigrant origin, is often made public in the media. Therefore, it *considers* that ACIME's public statement issued with a view to combating stigmatisation of ethnic minorities in the media is a commendable initiative and that the authorities should continue and further develop similar laudable initiatives, paying particular attention to fighting prejudices against the Roma. Furthermore, it finds that the latter have very limited access to the media and *considers* that the authorities should seek ways of improving this situation.

62. The Advisory Committee *finds* that attitudes of rejection and hostility towards minorities are present in the Portuguese society, especially based on the colour of the skin and towards Roma; it further *finds* that racist movements are increasingly active, although reported racially-motivated violence and crime remain rare. The Advisory Committee also *finds* that lack of data on racially-motivated crime hinders proper monitoring of this problem. Consequently, the Advisory Committee *considers* that the authorities should further develop and strengthen programmes aiming at countering prejudices against persons belonging to ethnic minorities and should put mechanisms in place to ensure the proper recording and data collection on racially motivated violence and crime and to ensure that these crimes are thoroughly investigated.

63. The Advisory Committee *finds* that police abuse against persons belonging to minorities and, in general, tense relations between such persons and law enforcement agents are still reported, despite measures taken by the authorities to tackle this problem. The Advisory Committee *considers* that the authorities should continue to seek ways of remedying this problem and of improving relations between the police forces and persons belonging to minorities.

64. The Advisory Committee *finds* that a number of Roma and immigrants continue to live in segregated urban areas, often in substandard conditions. It further *finds* that persons belonging to the Roma minority are sometimes evicted and expelled from cities, often under pressure of the local population. Therefore, the Advisory Committee *considers* that the authorities should promote adequate solutions to housing problems faced by persons belonging to the Roma minority and should develop further awareness on human rights issues among local authorities.

65. The Advisory Committee *finds* that participation of persons belonging to the Roma minority in public affairs, as well as in the social, economic and cultural spheres, is very limited. It therefore *considers* that the authorities should set up efficient consultation and participation arrangements in order to ensure effective participation of the Roma in decision-making concerning them and, more generally, in public affairs and socio-economic life.

V. CONCLUDING REMARKS

66. Following the receipt of the initial State Report of Portugal on 23 December 2004 (due on 1st September 2003), the Advisory Committee commenced the examination of the State Report at its 22nd meeting from 21 to 24 February 2005. The Advisory Committee adopted its opinion on Portugal at its 27th meeting on 6 October 2006.

67. Although the State Report states that there are no national minorities in Portugal, the position expressed by the authorities with regard to the scope of application of the Framework Convention has evolved in the course of their dialogue with the Advisory Committee and, in particular, the relevance of Article 6 of the Framework Convention has been recognised. The authorities are encouraged to take further steps in this respect, including engaging in consultations on the Framework Convention with the groups considered ethnic minorities by the authorities.

68. The Advisory Committee welcomes the authorities' efforts to adopt legislative, institutional and practical measures to combat discrimination and racism. Integration policy, coupled with the promotion of multicultural education, has also remained high on the agenda. Moreover, measures have been taken to improve the socio-economic and educational situation of the Roma. However, a large number of Roma are still at a disadvantage in this respect. They are also often confronted with discrimination, social exclusion and marginalisation.

69. Further measures should be developed, in co-operation with the persons concerned, to promote the full and effective equality of the Roma, in particular in the fields of housing, education, employment and health and to continue to combat prejudice and hostility against them.