

Portugal

Mid-term Implementation Assessment



*Promoting and strengthening
the Universal Periodic Review*
<http://www.upr-info.org>



Introduction

1. Purpose of the follow-up programme

The second and subsequent cycles of the review should focus on, inter alia, the implementation of the accepted recommendations and the development of the human rights situation in the State under review.

A/HRC/RES/16/21, 12 April 2011 (Annex I C § 6)

The Universal Periodic Review (UPR) process takes place every four and half years; however, some recommendations can be implemented immediately. In order to reduce this interval, we have created an update process to evaluate the human rights situation two years after the examination at the UPR.

Broadly speaking, *UPR Info* seeks to ensure the respect of commitments made in the UPR, but also, more specifically, to give stakeholders the opportunity to share their opinion on the commitments. To this end, about two years after the review, *UPR Info* invites States, NGOs, and National Institutions for Human Rights (NHRI) to share their comments on the implementation (or lack thereof) of recommendations adopted at the Human Rights Council (HRC) plenary session.

For this purpose, *UPR Info* publishes a Mid-term Implementation Assessment (MIA) including responses from each stakeholder. The MIA is meant to show how all stakeholders are disposed to follow through on, and implement their commitments. States should implement the recommendations that they have accepted, and civil society should monitor that implementation.

While the follow-up's importance has been highlighted by the HRC, no precise directives regarding the follow-up procedure have been set until now. Therefore, *UPR Info* is willing to share good practices as soon as possible, and to strengthen the collaboration pattern between States and stakeholders. Unless the UPR's follow-up is seriously considered, the UPR mechanism as a whole could be adversely affected.

The methodology used by UPR Info to collect data and to calculate index is described at the end of this document.

Geneva, 12 June 2012

Follow-up Outcomes

1. Sources and results

All data are available at the following address:

<http://followup.upr-info.org/index/country/portugal>

We invite the reader to consult that webpage since all recommendations, all stakeholders reports, as well as the unedited comments can be found at the same internet address.

2 stakeholders' reports were submitted for the UPR. 3 NGOs were contacted. The Permanent Mission to the UN was contacted. The domestic NHRI was contacted as well.

1 NGO responded to our enquiry. The State under Review responded to our enquiry. The domestic NHRI responded to our enquiry too.

IRI: 19 recommendations are not implemented, 44 recommendations are partially implemented, and 39 recommendations are fully implemented. No answer was received for 8 out of 115 recommendations (full list of unanswered recommendations is available at the end of this document).

2. Index

Hereby the issues which the MIA deals with:

rec. n°	Issue	page	IRI
1	Migrants, International instruments,	page 22	not impl.
2	Right to housing, Right to education, Minorities, Labour,	page 7	partially impl.
3	Rights of the Child	page 36	partially impl.
4	Women's rights	page 37	partially impl.
5	Migrants	page 14	partially impl.
6	International instruments, ESC rights - general,	page 23	not impl.
7	Minorities, Migrants, Asylum-seekers - refugees,	page 15	fully impl.
8	International instruments, Enforced disappearances,	page 23	not impl.
9	Migrants, International instruments,	page 24	not impl.



rec. n°	Issue	page	IRI
10	Torture and other CID treatment, International instruments,	page 24	not impl.
11	Rights of the Child	page 37	partially impl.
12	Human rights violations by state agents	page 29	not impl.
13	Minorities	page 16	partially impl.
14	Women's rights, Rights of the Child,	page 37	partially impl.
15	Women's rights, Human rights education and training,	page 38	fully impl.
16	Human rights education and training, Detention conditions,	page 29	fully impl.
17	Racial discrimination, Human rights education and training,	page 9	fully impl.
18	Minorities, Migrants, ESC rights - general, Asylum-seekers - refugees,	page 14	partially impl.
19	Freedom of the press	page 9	fully impl.
20	Racial discrimination, Human rights violations by state agents,	page 30	fully impl.
21	Trafficking	page 30	fully impl.
22	Minorities	page 17	partially impl.
23	Minorities, Human rights violations by state agents,	page 17	partially impl.
24	Women's rights, Rights of the Child,	page 38	partially impl.
25	Racial discrimination, Minorities,	page 18	partially impl.
26	Racial discrimination	page 9	fully impl.
27	Torture and other CID treatment, International instruments,	page 24	not impl.
28	Women's rights	page 38	partially impl.
29	Racial discrimination, Minorities, Migrants, Human rights violations by state agents,	page 19	partially impl.
30	Women's rights, Treaty bodies,	page 39	-
31	Women's rights, Rights of the Child,	page 39	fully impl.
32	Disabilities	page 19	partially impl.
33	Justice, Detention conditions,	page 32	fully impl.
34	Women's rights	page 39	partially impl.
35	Right to education	page 10	fully impl.
36	International instruments, Disabilities,	page 25	fully impl.
37	Torture and other CID treatment, International instruments,	page 24	not impl.
38	Treaty bodies, Special procedures,	page 26	fully impl.
39	International instruments, Disabilities,	page 25	fully impl.
40	Rights of the Child	page 40	partially impl.
41	Minorities, Migrants,	page 20	partially impl.
42	Rights of the Child, Detention conditions,	page 41	partially impl.
43	Human rights education and training	page 10	partially impl.
45	Rights of the Child, Right to education, Disabilities,	page 41	partially impl.
46	Torture and other CID treatment, International instruments,	page 24	not impl.
47	ESC rights - general	page 11	fully impl.
48	Migrants, International instruments,	page 23	not impl.
49	NHRI	page 45	fully impl.
50	Minorities	page 20	partially impl.



rec. n°	Issue	page	IRI
51	Women's rights, Treaty bodies,	page 39	-
52	International instruments, Enforced disappearances,	page 23	not impl.
53	Torture and other CID treatment, International instruments,	page 25	not impl.
54	Detention conditions	page 33	partially impl.
55	Minorities	page 20	partially impl.
56	Racial discrimination	page 12	fully impl.
57	NHRI	page 45	fully impl.
58	Other	page 15	fully impl.
59	Treaty bodies, Rights of the Child, International instruments,	page 42	partially impl.
60	Minorities	page 21	partially impl.
61	National plan of action	page 46	not impl.
62	International instruments, Disabilities,	page 27	partially impl.
64	Human rights violations by state agents, Human rights education and training,	page 21	fully impl.
65	Trafficking	page 30	fully impl.
66	International instruments, Enforced disappearances,	page 24	not impl.
67	General	page 46	partially impl.
68	Treaty bodies	page 28	-
69	NHRI	page 47	fully impl.
70	Women's rights, Trafficking,	page 39	partially impl.
71	Rights of the Child, Minorities,	page 42	fully impl.
72	NHRI	page 45	fully impl.
73	Rights of the Child	page 40	not impl.
74	Racial discrimination	page 12	partially impl.
75	Torture and other CID treatment, International instruments,	page 25	partially impl.
77	Racial discrimination, Freedom of religion and belief,	page 12	fully impl.
78	Detention conditions	page 33	partially impl.
79	Migrants	page 15	partially impl.
80	NHRI	page 45	fully impl.
81	Right to education, Human rights education and training,	page 13	partially impl.
82	Human rights education and training	page 14	fully impl.
84	Trafficking	page 30	fully impl.
85	Rights of the Child	page 40	partially impl.
86	Racial discrimination	page 12	fully impl.
87	Migrants, International instruments,	page 23	not impl.
88	Migrants	page 15	-
89	Justice	page 34	fully impl.
90	UPR process	page 28	fully impl.
91	Human rights violations by state agents	page 34	partially impl.
93	Migrants, International instruments,	page 23	not impl.
95	Trafficking	page 31	fully impl.
96	Human rights education and training	page 14	fully impl.
98	Minorities, Migrants, Human rights education and training,	page 21	fully impl.



rec. n°	Issue	page	IRI
	Asylum-seekers - refugees,		
99	Trafficking	page 31	partially impl.
100	Women's rights, Human rights education and training,	page 38	-
101	Treaty bodies	page 26	partially impl.
102	Women's rights	page 42	partially impl.
103	Women's rights, Rights of the Child,	page 43	partially impl.
104	Torture and other CID treatment, International instruments,	page 25	not impl.
105	Human rights violations by state agents	page 32	fully impl.
106	Women's rights, Rights of the Child,	page 43	partially impl.
107	Detention conditions	page 35	fully impl.
109	Trafficking	page 31	fully impl.
110	Migrants	page 15	fully impl.
111	Civil society	page 7	partially impl.
112	UPR process, Civil society,	page 28	fully impl.
113	Torture and other CID treatment, International instruments,	page 25	not impl.
114	Rights of the Child, Minorities, Labour,	page 45	partially impl.
115	Detention conditions	page 35	partially impl.



3. Feedbacks on recommendations

CP Rights

Recommendation n°111: *Begin a national consultation process with governmental and nongovernmental actors on the most appropriate national preventive mechanism (Recommended by United Kingdom)*

IRI: *partially implemented*

Portuguese Ombudsman (Ombudsman) response:

The Portuguese Ombudsman has on several occasions promoted the swift ratification of the OPCAT, confirming to the competent national authorities his availability to undertake the function of NPM, in light of the powers that he already has and the sustained work that he has developed over the years as regards the penitentiary system and the rights of inmates. Pursuant to this, the Portuguese Ombudsman participated in meetings held at national level to deal with the matter. These meetings were attended by representatives of ministries and other public entities. The Portuguese Ombudsman does not have information on the realization of specific consultations regarding civil society actors. In its UPR midterm review, Portugal indicated that the process of ratification of the OPCAT should be completed soon and that the Portuguese Ombudsman would be appointed as the NPM, given his vast experience in inspecting places of detention and the fact that it meets the requirements set out in the Protocol. Also, the Ombudsman received some time ago the indication that a proposal for ratification of the OPCAT, including the appointment of the Ombudsman as NPM, was going to be sent to Parliament. However, proceedings seem to be delayed at this stage.

ESC Rights

Recommendation n°2: *Take additional measures notably in the areas of housing, employment, education and access to social services, particularly to benefit the Roma (Recommended by Algeria)*

IRI: *partially implemented*

Ombudsman response:

Over the past few years the Portuguese Ombudsman has received a growing number of complaints concerning Social Security issues, which at least in part can be attributed to the impact of legislative changes in the legal frameworks of social security and social protection of State workers, regarding not only the conditions of access to and calculation of pensions and other social benefits, but also the organisation and functioning of the services that manage them. Among these complaints, the Ombudsman's 2011 Report to the Parliament notes an increase in



those regarding unemployment, family and sickness benefits, as well as Social Security contributions and debts. In the area of Education, the same report notes the appearance of complaints regarding social action in education benefits. All these considerations no doubt have to be looked at in the framework of the economic and financial situation currently faced by Portugal. Furthermore, it is also fair to acknowledge some positive developments, for example, in the area of social housing, the efforts of City Councils to adopt more transparent procedures. The Ombudsman also takes note of the adoption of a Social Emergency Program aiming to address the most serious situations in terms of poverty and exclusion. Specifically as regards the Roma, in line with EU decisions on this matter the Portuguese authorities have drafted a National Strategy for the Integration of Roma Communities. The document gathered contributions from 8 ministries, local authorities, civil society organisations and representatives of Roma communities. It was submitted to public consultation from 28th December 2011 to 18th January 2012. In addition to the key-themes of Education, Access to Employment, Health and Housing, indicated by the EU, the Government added a cross-cutting priority area on issues of Citizenship, Fight against Discrimination, Gender Equality and Justice and Security. The draft Strategy envisages several measures aiming to ascertain the situation of Roma in different areas (e.g. produce a crosscutting national survey of the socio-economic situation of Roma communities, by 2014), to improve this situation (e.g. completion of compulsory education for 60% of male and female Roma children, by 2020); to strengthen Roma participation (e.g. implement 4 training actions on small project management, by 2015); and to promote Roma culture and change public perception in relation to that community (e.g. implement at least 24 training/awareness raising actions aimed at a diversity of sectors of the population – Roma communities, professionals in various areas and decision-makers, amongst others, by 2020). The Portuguese Ombudsman welcomes this positive step but, noting that the draft Strategy is still pending final approval at internal level, encourages the Portuguese Government to swiftly conclude work on this matter.

State of Portugal response:

Housing programs are promoted in cooperation among central, regional and local authorities and guided by, inter alia, the principle of non-discrimination. A National Roma Integration Strategy in the field of housing is in preparation since September 2011. [See response to recommendation n° 13]

A strategy was implemented in recent years to reduce inequalities in the areas of education and training, promote educational success and better manage available resources. In addition to measures indicated under [recommendation n° 35], provisions were taken to provide pre-school education to all children under 5, certify skills obtained outside the school system, equip schools with new technologies, promote reading (by implementing a national plan in this regard and developing a school libraries network), evaluate teachers and enhance the role of regional and local authorities, as well as the autonomy and accountability of education institutions. Furthermore, initiatives were taken to reform education for pupils with special needs and promote the professional qualification of persons with disabilities, including regarding the recognition and certification of skills and the testing of methods adapted to specific audiences.



Recommendation n°17: *Continue efforts to raise public awareness of human rights and effectively combat racism, racial discrimination and intolerance* (Recommended by Azerbaijan)

IRI: *fully implemented*

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Recommendation n°19: *Intensify its efforts to create a culture of tolerance in society through, inter alia, the use of public and private media* (Recommended by Bangladesh)

IRI: *fully implemented*

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Recommendation n°26: *Continue and strengthen efforts carried out by the High Commission for Immigration and Intercultural Dialogue, particularly efforts to raise awareness of the need to combat racism, discrimination and intolerance* (Recommended by Brazil)

IRI: *fully implemented*

State of Portugal response:

Awareness-raising to human rights and the fight against racism and intolerance continues to be a priority for Portugal and many activities in these areas have taken place over the reporting period, including the continuation of efforts by ACIDI and notably within the II Plan for Immigrant Integration (2010-2013). Actions undertaken include TV and radio programs and the establishment of two annual prizes for media works promoting human rights and tolerance. Several publications on migration and asylum-related issues were launched and distributed, including the Portuguese versions of IOM Glossary on Migration and of “A Diversity toolkit for factual programs in public service television”, produced by the EU Agency for Fundamental Rights and based on which Portuguese public television (RTP) has developed a code of ethics.

Specific workshops for media professionals on how to address migration issues were held throughout the country, as well as seminars for journalists on such areas as disabilities, immigration, diversity, asylum/refugees and violence. Furthermore, a list of migrants with prominent work in several areas, such as doctors, artists and lawyers, has been prepared and disseminated to media professionals. In 2011, the Commission for Equality and against Racial Discrimination (CICDR), which examines complaints of racial discrimination and issues recommendations thereon, publicly reaffirmed its 2006 recommendation for the media and law enforcement agencies to, inter alia, refrain from revealing a subject’s nationality, ethnicity, religion or immigrant legal status in official communications.

A training team on intercultural issues has been created to help public schools – and other actors– deal with an increasingly diverse student population by providing free-of-charge support to awareness-raising activities at the local level. The curricula of science and humanities courses now cover such topics as citizenship, health and sexuality. Other measures include the adoption of specific strategies on intercultural issues for, inter alia, high level public officers and educators and the introduction of a post-graduation course for local staff working with migrants (2009), as well as the implementation of a pilot project to help clarify the role of intercultural mediation agents (2011).



Recommendation n°35: *Continue the implementation of plans to reduce schools desertion rates, particularly at the secondary level (Recommended by Chile)*

IRI: *fully implemented*

State of Portugal response:

Several measures have been taken to reduce school drop-out rates, including curricular reform to improve basic skills (reading, mathematics and sciences) and the extension of compulsory schooling to 18 years of age (Program “Education 2015” was launched to achieve these goals). Also important is the implementation of projects on priority intervention in the field of education (Program TEIP), improvement of school performance (“More Success at School”), definition of learning goals and of alternative curricula, namely with increased focus on vocational training, as well as the re-organization of the school network and closer collaboration of education authorities with child protection commissions. Portugal has established as a national target a school drop-out rate of 10% by 2020, and an interim target of 15% by 2014.

Recommendation n°43: *Adopt further measures to provide police, prison and judicial staff with human rights training with specific focus on protection of human rights of women, children, ethnic or national minorities as well as of persons of minority sexual orientation or gender identity and strengthen the accountability of such personnel for their proper conduct, particularly when dealing with cases of hate crimes (Recommended by Czech Republic)*

IRI: *partially implemented*

International Lesbian and Gay Association Europe (ILGAE) response:

Even though no specific actions have been conducted since the 2010 training conducted with elements of the police by ILGA Portugal with the Danish Institute for Human Rights, the Minister of Justice has recently suggested to ILGA Portugal the drafting of a memorandum (to be signed after September 2012) to formally establish human rights training on LGBT issues in the Justice sector. The Secretary of State for Internal Affairs has also reaffirmed the will to proceed with police trainings.

State of Portugal response:

Efforts are underway to provide training on gender mainstreaming to senior public officials and legislators working in ministerial cabinets, and a Protocol to this effect was signed in 2009 with the institute responsible for providing training to Portuguese civil servants. Human rights issues are covered in the initial and ongoing training of, inter alia, judges and public prosecutors, police and border officers, prison staff and social workers.

Furthermore, specific training on domestic and/or sexual violence is provided to police agents, magistrates, education and health professionals, social workers, conflict mediators, intercultural mediators (under the II Plan for Immigrant Integration) and journalists, and such topics are also addressed in courses on humanities, social, criminal and health sciences. A significant number of police agents are receiving training on victim protection and risk assessment, and special premises are being assigned to interview victims in police stations. Training actions for law enforcement officers have also been undertaken on violent crimes, sex crimes and hate crimes



against LGBT persons. Efforts are ongoing to develop a reliable risk assessment tool for security forces in cases of domestic violence.

Specific training has been provided to judges and public prosecutors on child protection, combating cybercrime, family law, international protection of foreigners and the jurisprudence of the European Court of Human Rights, and information on relevant human rights topics has been made available in the internal web network for public prosecutors. In 2011, training activities for social workers have been organized on, inter alia, the rights of persons with disabilities and social services intervention in criminal proceedings. Staff of registry and notary departments has received training on service provision to persons with disabilities.

Recommendation n°47: Continue the role it plays in multilateral fora in support of the promotion and protection of economic, social and cultural rights (Recommended by Egypt)

IRI: fully implemented

Ombudsman response:

The Portuguese Ombudsman acknowledges and welcomes the active role assumed by Portugal as a promoter of different international instruments and resolutions relating to economic, social and cultural rights. Nevertheless, the Ombudsman further encourages the Portuguese Government to swiftly conclude the process of ratification of the OP-ICESCR. Indeed, in the last plenary meeting of the National Human Rights Commission (27th January 2012), in reply to questions raised by civil society representatives, it was indicated that the process leading to the ratification of the OP-ICESCR had been suspended due to the change in Government but that it was already in an advanced stage. Also, in its midterm review, Portugal affirmed that it was fully committed to becoming a Party to, and to the early entry into force of, the OP-ICESCR, expecting the ratification process to be completed soon. However, the Portuguese Ombudsman is not aware of any further developments. (note: The National Human Rights Commission is a governmental body working under the Ministry of Foreign Affairs that aims to ensure better coordination between ministries, both regarding the preparation of Portugal's position in international organizations on human rights and the fulfilment of its obligations on this matter. One of its competences is to propose that Portugal consents to be bound by international human rights instruments.)

State of Portugal response:

The position of Portugal in multilateral human rights fora is guided by the principles of universality, indivisibility, interrelatedness and interdependence of all human rights, the full realization of which is a long-standing commitment of the Portuguese State. Besides the resolution on the Right to Education referred to in [recommendation n° 81], we are the main sponsors of a resolution on ESCR regularly presented to the HRC, as well as of a resolution on Programs and Policies involving Youth biennially presented (with Senegal and Moldova) to UNGA and to the Commission for Social Development. We are also traditional co-sponsors of most of ESCR-related resolutions at UNGA and HRC and intend to maintain this high level of commitment to ESCR in international fora.



Recommendation n°56: *Take measures to address the problem of discrimination and racially motivated acts* (Recommended by Ghana)

IRI: *fully implemented*

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Recommendation n°77: *Strengthen efforts and measures to counter the dissemination of racist, xenophobic and anti-Semitic propaganda, which generate incitement to racial hatred* (Recommended by Mauritius)

IRI: *fully implemented*

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Recommendation n°86: *Closely monitor developments relating to extreme right and racist movements, including skinhead groups, and reinforce efforts to counter the dissemination of racist and xenophobic propaganda by a section of the population through the Internet* (Recommended by Nigeria)

IRI: *fully implemented*

State of Portugal response:

Portuguese law specifically establishes the crime of racial, religious or sex discrimination, which covers organized propaganda activities inciting to discrimination on the basis of race, color, ethnic or national origin, religion, sex or sexual orientation, as well as acts of violence, threats or defamation on the same basis and the denial of war crimes, crimes against peace or crimes against Humanity. Furthermore, racist motivation can be taken into account in the determination of the measure of penalty in relation to all crimes, thereby constituting a sort of general aggravating circumstance. All such offences are considered crimes of priority prevention and investigation. Police regularly monitors websites, web chatting rooms and other fora associated with violent extreme right groups. A special tool has been made available in CICDR website to facilitate complaints and speed up action against any blog or site disseminating racism.

Recommendation n°74: *Closely monitor the situation relating to direct or indirect racial discrimination and ensure that complaints in this area are duly dealt with in the most effective manner possible* (Recommended by Mauritius)

IRI: *partially implemented*

State of Portugal response:

There is an administrative complaints procedure for cases of racial discrimination, managed by CICDR, which can lead to the imposition of fines. The Ombudsman can also receive complaints of racial discrimination perpetrated by public authorities (and, in more limited cases, by private entities) and can address to competent bodies such recommendations as may be necessary to prevent or remedy any illegal or unfair practices. See also [recommendation n° 49].

Ombudsman response:

The Portuguese Ombudsman welcomes the provision of article 240 of the Criminal Code (racial, religious or sexual discrimination) and the legal framework established in Law 18/2004 as regards fight against racial and ethnic discrimination, but also takes note of the concerns expressed by the CERD with regard to the number of complaints presented under article 240, as well as with the level of effectiveness of the complaints mechanism of Law 18/2004. Recalling that his own mandate includes the competence to deal with issues of racial discrimination, he acknowledges that, in



contrast with his activity concerning migrants and foreigners, the experience with cases of discrimination specifically based on race or ethnic origin has been much more limited, due mainly to the low number of complaints focused on this issue. A positive initiative in this regard is the Cooperation Protocol recently celebrated between the Portuguese Ombudsman and the High Commission for Immigration and Intercultural Dialogue, whereby the High Commission commits to informing citizens of the Ombudsman's mission and competences, as well as of the means to submit a complaint to him. The High Commission also commits to making available in National Centres for Immigrant Support adequate means and free access to the Ombudsman's webpage, as well as assistance in the filling out of complaint forms, whenever requested. The High Commission also commits to helping the Ombudsman, with full confidentiality and to the extent possible, with translations in contacts with the complaints. In turn, the Portuguese Ombudsman commits to providing all necessary documents to enable the High Commission inform citizens of his mission and competences, as well as to forward to the Legal Support Offices at the National Centres those citizens that address him and that need guidance to which the High Commission is especially competent.

Recommendation n°81: Continue its efforts to promote human rights at the international level, particularly in the field of the right to education, and continue to integrate human rights education and training in these efforts (Recommended by Morocco)

IRI: partially implemented

State of Portugal response:

Portugal is very committed to the international realization of the right to education and, as such, annually presents a draft resolution on such right to the HRC, with cross-regional support. We have also supported the adoption of the UN Declaration on Human Rights Education and Training.

Furthermore, education is a major focus of Portugal's development aid strategy in Portuguese speaking countries in Africa and East Timor. Portugal is involved in teacher training, curricula and education policy development, cooperation with universities and budget support. Our training programs to these countries' judiciary, police forces and prison guards have a strong human rights perspective. Portuguese universities have been involved in supporting the legislative process in these countries, hence contributing to building modern juridical systems that comply with international human rights standards.

Ombudsman response:

In the area of human rights education, the Portuguese Ombudsman expresses his satisfaction with the celebration of Protocols of collaboration with the Ministry of Education and the Law School of the University of Lisbon, under which several initiatives are envisaged to promote the study and reflection on human rights issues, and to disseminate information, amongst the general public, namely the younger generations, on the content and meaning of human rights, as well as the existence of the Ombudsman as an institution dedicated to their defence. Still, despite these and other efforts made by the Portuguese authorities in this domain, the Portuguese Ombudsman is concerned by the decision taken as regards the subject of civic



education in the context of the revision of the curricular structure for 2012-2013. On 23rd January 2012, the Ombudsman addressed a letter to the Minister of Education, in which he transmitted his concern regarding this revision, which at the time was undergoing public consultation, since it aimed to eliminate the subject of civic education for students of the 2nd and 3rd cycles of basic education and of 10th grade. The Ombudsman considered such a change to be incompatible with international instruments on this matter and with the promotion of an active citizenship and of citizens' awareness to their fundamental rights and duties. The Ombudsman never received a reply to his letter, but came to be informed through media reports that the Government had decided to leave to each school the decision of whether or not to include this subject in the curriculum.

Recommendation n°82: *Share at the international level its national experience as well as the different initiatives it has taken in the field of human rights education* (Recommended by *Morocco*)

IRI: *fully implemented*

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Recommendation n°96: *Share its experiences in promoting human rights education with other countries* (Recommended by *Philippines*)

IRI: *fully implemented*

State of Portugal response:

The importance of the Internet as a platform for the diffusion of information has continued to increase, which facilitates the sharing of information in the field of human rights education. Many public departments, including the Office of the High Commissioner for Immigration and Intercultural Dialogue and the Commission for Citizenship and Gender Equality run websites with a wealth of information on instruments and activities relevant in their areas of work. The Media Office also runs Facebook and Twitter pages and regularly sends the most important documents directly to the media. On 15 December 2011, a new platform was launched at www.gddc.pt, where Portuguese-speaking users from around the world can obtain detailed information on all existing universal and regional human rights protection systems, Portuguese versions of the main international instruments and other education materials, as well as daily human rights news.

Indigenous & Minorities

Recommendation n°5: *Strengthen the integration of migrants through increased dialogue at the local level* (Recommended by *Angola*)

IRI: *partially implemented*

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Recommendation n°18: *Eliminate all forms of discrimination against the Roma, migrants and asylum-seekers and ensure equal opportunities for the enjoyment of their economic, social and cultural rights* (Recommended by *Bangladesh*)

IRI: *partially implemented*

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Recommendation n°79: *In line with its commitment to the human rights of migrants, implement or strengthen existing measures to prevent and sanction acts of discrimination against migrants* (Recommended by Mexico)

IRI: *partially implemented*

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Recommendation n°88: *Remove the bureaucratic obstacles to rendering prompt assistance to immigrants* (Recommended by Nigeria)

IRI: -

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Recommendation n°110: *Continue efforts to promote the integration of immigrants in Portugal* (Recommended by Ukraine)

IRI: *fully implemented*

State of Portugal response:

[Alto Comissariado para a Imigração e Diálogo Intercultural (ACIDI)] is continuing its comprehensive work in these areas, namely under the II Plan for Immigrant Integration (2010-2013) approved in September 2010. It provides support to immigrants and victims of racial discrimination through, inter alia, 3 national and 85 local immigrant support centers throughout the country (CNAI and CLAI), as well as through an Immigrant Legal Support Office (GAJI) that provides free of charge legal advice and mediation services in such areas as nationality, employment, social security, exercise of rights and access to justice. The NGO APAV (Portuguese Association for Victim Support) runs a Victim Support Unit to Immigrants and Victims of Racial and Ethnic Discrimination (UAVIDRE), which, with the support of ACIDI, provides free of charge, legal and psychological assistance to such victims.

Furthermore, Program “Choices” is now in its fourth phase (2010-2013): it is a public program, coordinated by ACIDI, aimed at promoting the social integration of children and young people aged 6 to 24 from disadvantaged social backgrounds, many of which are of migrant descent or members of the Roma community. Programs “SEF in Motion” and “SEF goes to School” (see [recommendation n°7]) also contribute to promote the rights of those persons.

Recommendation n°7: *Intensify efforts to strengthen programmes, projects and other measures to prevent discrimination against vulnerable groups, including some Roma women, asylum-seekers and migrants* (Recommended by Argentina)

IRI: *fully implemented*

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Recommendation n°58: *Continue efforts to strengthen a culture of tolerance to eliminate all forms of discrimination against vulnerable groups* (Recommended by India)

IRI: *fully implemented*

State of Portugal response:

In addition to measures outlined above, a series of measures was undertaken in 2010 and 2011 to sensitize against discrimination, including a national photo and video contest, the display of banners in soccer stadiums, a symposium on immigration and intercultural dialogue and the publication of a book on racist discourse in Portugal.



The police is training agents to act as mediators in Roma communities, including as a means to encourage their civic participation, promote education and find appropriate response to the needs of Roma women. The Immigration and Borders Service (SEF) develops outreach programs to provide a whole range of services to such vulnerable groups as sick persons, children and the elderly (“SEF in Motion”), as well as to provide information to irregular migrant children attending school (“SEF goes to school”). The Ministry of Internal Affairs has adopted its first Sectorial Plan on Gender Equality, a main focus of which is to raise the awareness of staff (including police officers) to gender and sexual orientation issues. A working group on violence and hate crimes against LGBT people was established in partnership with security forces.

Recommendation n°13: *Strengthen its efforts to integrate Roma communities through positive action in the area of housing, employment, education and social services*
(Recommended by *Australia*)

IRI: partially implemented

State of Portugal response:

A Pilot Project for Municipal Mediators was launched in October 2009, whereby mediators, preferably of Roma origin and locally resident, are placed in local services or facilities and adequately trained, with the view to improve the access of the Roma communities to such services or facilities and prevent conflict situations. Roma communities obviously benefit from many of the measures in place for the general population, including Social Integration Allowance, housing programs, social protection schemes, including in school context, and access to the National Health Service. A Portuguese Strategy for the Inclusion of Roma Communities is now in preparation, focusing on 4 main areas: education, health, housing and employment.

Ombudsman response:

In line with EU decisions on this matter, the Portuguese authorities have drafted a National Strategy for the Integration of Roma Communities. The document gathered contributions from 8 ministries, local authorities, civil society organisations and representatives of Roma communities. It was submitted to public consultation from 28th December 2011 to 18th January 2012. In addition to the key-themes of Education, Access to Employment, Health and Housing, indicated by the EU, the Government added a cross-cutting priority area on issues of Citizenship, Fight against Discrimination, Gender Equality and Justice and Security. The draft Strategy envisages several measures aiming to ascertain the situation of Roma in different areas (e.g. produce a crosscutting national survey of the socio-economic situation of Roma communities, by 2014), to improve this situation (e.g. completion of compulsory education for 60% of male and female Roma children, by 2020); to strengthen Roma participation (e.g. implement 4 training actions on small project management, by 2015); and to promote Roma culture and change public perception in relation to that community (e.g. implement at least 24 training/awareness raising actions aimed at a diversity of sectors of the population – Roma communities, professionals in various areas and decision-makers, amongst others, by 2020). The Portuguese Ombudsman welcomes this positive step but, noting that the draft Strategy is still pending final approval at internal level, encourages the Portuguese Government to swiftly conclude work on this matter.



Recommendation n°22: *Prepare, in consultation with concerned communities, a national strategy to ensure better integration of the Roma in society (Recommended by Belgium)*

IRI: *partially implemented*

State of Portugal response:

A Pilot Project for Municipal Mediators was launched in October 2009, whereby mediators, preferably of Roma origin and locally resident, are placed in local services or facilities and adequately trained, with the view to improve the access of the Roma communities to such services or facilities and prevent conflict situations. Roma communities obviously benefit from many of the measures in place for the general population, including Social Integration Allowance, housing programs, social protection schemes, including in school context, and access to the National Health Service. A Portuguese Strategy for the Inclusion of Roma Communities is now in preparation, focusing on 4 main areas: education, health, housing and employment.

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In addition to measures outlined above, a series of measures was undertaken in 2010 and 2011 to sensitize against discrimination, including a national photo and video contest, the display of banners in soccer stadiums, a symposium on immigration and intercultural dialogue and the publication of a book on racist discourse in Portugal.

The police is training agents to act as mediators in Roma communities, including as a means to encourage their civic participation, promote education and find appropriate response to the needs of Roma women. The Immigration and Borders Service (SEF) develops outreach programs to provide a whole range of services to such vulnerable groups as sick persons, children and the elderly (“SEF in Motion”), as well as to provide information to irregular migrant children attending school (“SEF goes to school”). The Ministry of Internal Affairs has adopted its first Sectorial Plan on Gender Equality, a main focus of which is to raise the awareness of staff (including police officers) to gender and sexual orientation issues. A working group on violence and hate crimes against LGBT people was established in partnership with security forces.

Ombudsman response:

[See response to recommendation n° 13]

Recommendation n°23: *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 (Recommended by Belgium)*

IRI: *partially implemented*

State of Portugal response:

In addition to the [...] information [shared at the response to recommendation 98], we recall that police stations are inspected by the Inspectorate General of Home Affairs (IGAI), which also receives complaints of illegal practices allegedly committed by



police officers. We continue to believe that this body performs these duties with the necessary degree of independence. From January 2010 to June 2011, 45 unannounced inspecting visits were carried out, and no significant violations were found. Over the same period, 440 complaints of ill-treatment were received, 347 of which were dismissed after investigation; the others are still pending. There were also six complaints of racial discrimination, all of which dismissed after investigation. The Ombudsman also carries out inspections to places of detention and investigates cases, pursuant to complaints or on his own initiative. See also [recommendations n° 45, 49, 71 and 79].

Ombudsman response:

In line with EU decisions on this matter, the Portuguese authorities have drafted a National Strategy for the Integration of Roma Communities. The draft Strategy includes a cross-cutting priority area that covers two priorities relating to Justice and Security: promoting the integration of the security forces and administration of justice agencies into local partnerships; and publicizing the National Strategy to local agents of the security forces and justice agencies. These seem to be positive steps towards improving the relations between law enforcement officials and the Roma. However, the Portuguese Ombudsman notes that, after a public consultation that ended on 18th January 2011, the draft Strategy is still pending final approval at internal level. Therefore, the Ombudsman encourages the Portuguese Government to swiftly conclude work on this matter. As regards the independent institution responsible for supervising the acts of the police, the Ombudsman notes the role of the General-Inspectorate for Internal Affairs and also the fact that his own scope of competence includes the activity of the police (in 2011 the Ombudsman launched an inspection to police stations of the Public Security Police, territorial units of the National Republican Guard and detention areas of the Judiciary Police, to assess the conditions in which the detention of citizens takes place and also the level of compliance with proceedings for reception of complaints, detention and protection of citizens). Further to this, in its UPR midterm review Portugal indicated that the process of ratification of the OPCAT should be completed soon and that the Ombudsman would be appointed as the NPM, given his vast experience in inspecting places of detention and the fact that it meets the requirements set out in the Protocol. But, while at national level the Ombudsman did participate in meetings dedicated to this issue, pursuant to which he received some time ago the indication that a proposal was going to be sent to Parliament, proceedings seem to be delayed at this stage.

Recommendation n°25: 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 (Recommended by Brazil)

IRI: partially implemented

ILGAE response:

There is no disaggregated data on hate crimes and ILGA Portugal has continually been drawing attention to this issue with both the Ministry of Internal Affairs and the Ministry of Justice, as well as with the Secretary of State for Equality.

State of Portugal response:

Portugal has accepted 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.” In 2010, CICDR received 89 complaints of racial discrimination, but only in 44 cases was the nationality of the complainant identified: in 10 of the cases, alleged victims were of African origin; the largest number (18) related to Brazilian citizens. Concerning penal matters, data is collected on crimes of racial, religious or sexual discrimination and on people convicted for murder and assault crimes with racist motivation. In recent years there have been less than 3, or even zero, cases per year. Data is disaggregated by victim’s nationality or origin and by type of crime, not by race due to legal constraints.

Recommendation n°29: Strengthen measures aimed at combating racial profiling and discriminatory practices towards racial-ethnic minorities and immigrants, particularly by police and border control authorities (Recommended by Brazil)

IRI: partially implemented

State of Portugal response:

Police authorities follow the above mentioned CICDR recommendation (see [recommendation n° 17]. They are bound by the prohibition of discrimination and the breach of such duties may lead to, inter alia, disciplinary responsibility. A code of ethics for police staff is pending approval and it shall reaffirm the principles of equality and non-discrimination.

Recommendation n°32: Develop new plans to ensure that persons with disabilities can exercise their rights on an equal basis under the Action Plan for the Integration of Disabled Persons 2006-2009 (Recommended by Canada)

IRI: partially implemented

State of Portugal response:

The National Strategy on Disability (2011-2013) was approved in December 2010, based upon the UN Convention on the Rights of Persons with Disabilities, which Portugal ratified, together with its Optional Protocol, on 23 September 2009. This Strategy establishes a set of measures, targets and indicators in 5 areas: multiple discrimination; justice and exercise of rights; autonomy and quality of life; accessibility and universal design; modernization of administrative and information systems.

In October 2010, a project was launched with the view to create an independent observatory of the implementation of the Convention in Portugal, with the involvement of public and private partners (private Foundations, academic institutions). Research is being undertaken, and handbooks published, on such areas as women with disabilities, deinstitutionalization of children with disabilities, accessible tourism, availability of information on disability from public bodies and implementation of the International Classification of Functioning, Disability and Health (ICF) in health and social security inquiries. In 2011, a long term project on “Media and Disability” was launched, with the creation of a working group on the matter, the organization of a seminar, the launching of a website and a Facebook page, and the publication of a report.



Ombudsman response:

Council of Ministers Resolution 97/2010, which approves the National Strategy for Disability 2011-2013, was published in the Portuguese Official Journal on 14th December 2010. Stemming from the Action Plan for the Integration of Disabled Persons 2006-2009, it presents a set of multi-annual measures corresponding to 5 key areas: disability and multi-discrimination; justice and exercise of rights; autonomy and quality of life; accessibility and universal design; administrative modernization and information systems. The follow-up of the implementation and adequacy of the measures included in the Strategy will be carried out by an interdepartmental group. The group shall deliver an annual report to be submitted to the National Council for Integration and Rehabilitation of Persons with Disability. The Ombudsman is not aware of any such reports having been produced to date.

Recommendation n°41: *Take into account the situation and special needs of the Roma and migrants in the elaboration and implementation of all programmes and projects aimed at improving living conditions and the opportunities of the population in general* (Recommended by Cuba)

IRI: *partially implemented*

State of Portugal response:

A Pilot Project for Municipal Mediators was launched in October 2009, whereby mediators, preferably of Roma origin and locally resident, are placed in local services or facilities and adequately trained, with the view to improve the access of the Roma communities to such services or facilities and prevent conflict situations. Roma communities obviously benefit from many of the measures in place for the general population, including Social Integration Allowance, housing programs, social protection schemes, including in school context, and access to the National Health Service. A Portuguese Strategy for the Inclusion of Roma Communities is now in preparation, focusing on 4 main areas: education, health, housing and employment.

Recommendation n°50: *Seek to ensure effective participation of the Roma in the process of ensuring their equal and non-discriminatory treatment* (Recommended by Finland)

IRI: *partially implemented*

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Recommendation n°55: *Continue to take measures to improve the socio-economic and educational situation of the Roma in order to enable them to emerge from social exclusion and marginalization* (Recommended by Ghana)

IRI: *partially implemented*

Ombudsman response:

In line with EU decisions on this matter, the Portuguese authorities have drafted a National Strategy for the Integration of Roma Communities. The document gathered several contributions, including from civil society organisations and representatives of Roma communities, and was submitted to public consultation from 28th December 2011 to 18th January 2012. The draft Strategy itself includes measures aiming to strengthen Roma participation, such as the goal of implementing 4 training actions on small project management, by 2015, and the goal of encouraging participation by NGOs and associations representing Roma on 50% of local planning, evaluation and operational social platforms and groups, particularly those created under the Social



Network, which includes those NGOs and associations within its geographical scope, by 2020. The Portuguese Ombudsman welcomes these goals as a positive step. But, noting that, pursuant to a public consultation that ended on 18th January 2012, the draft Strategy is still pending final approval at internal level, the Ombudsman encourages the Portuguese Government to swiftly conclude work on this matter.

Recommendation n°60: *Develop a comprehensive strategy to effectively improve the situation of the Roma community in areas such as housing, education, employment and health care* (Recommended by *Iran*)

IRI: *partially implemented*

State of Portugal response:

[See response to recommendation n° 7]

Ombudsman response:

In line with EU decisions on this matter, the Portuguese authorities have drafted a National Strategy for the Integration of Roma Communities. The document gathered contributions from 8 ministries, local authorities, civil society organisations and representatives of Roma communities. It was submitted to public consultation from 28th December 2011 to 18th January 2012. In addition to the key-themes of Education, Access to Employment, Health and Housing, indicated by the EU, the Government added a cross-cutting priority area on issues of Citizenship, Fight against Discrimination, Gender Equality and Justice and Security. The draft Strategy envisages several measures aiming to ascertain the situation of Roma in different areas (e.g. produce a crosscutting national survey of the socio-economic situation of Roma communities, by 2014), to improve this situation (e.g. completion of compulsory education for 60% of male and female Roma children, by 2020); to strengthen Roma participation (e.g. implement 4 training actions on small project management, by 2015); and to promote Roma culture and change public perception in relation to that community (e.g. implement at least 24 training/awareness raising actions aimed at a diversity of sectors of the population – Roma communities, professionals in various areas and decision-makers, amongst others, by 2020). The Portuguese Ombudsman welcomes this positive step, but, noting that the draft Strategy is still pending final approval at internal level, encourages the Portuguese Government to swiftly conclude work on this matter.

Recommendation n°64: *Strengthen human rights training programmes for the different categories of police staff and ensure that all cases of excessive use of force are promptly investigated* (Recommended by *Italy*)

IRI: *fully implemented*

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Recommendation n°98: *Intensify its efforts to expand and strengthen the training of law enforcement officials and to enhance public awareness in relation to respect for the human rights and fundamental freedoms of immigrants, refugees and ethnic minorities* (Recommended by *Republic of Korea*)

IRI: *fully implemented*

State of Portugal response:

Efforts are underway to provide training on gender mainstreaming to senior public officials and legislators working in ministerial cabinets, and a Protocol to this effect



was signed in 2009 with the institute responsible for providing training to Portuguese civil servants. Human rights issues are covered in the initial and ongoing training of, inter alia, judges and public prosecutors, police and border officers, prison staff and social workers.

Furthermore, specific training on domestic and/or sexual violence is provided to police agents, magistrates, education and health professionals, social workers, conflict mediators, intercultural mediators (under the II Plan for Immigrant Integration) and journalists, and such topics are also addressed in courses on humanities, social, criminal and health sciences. A significant number of police agents are receiving training on victim protection and risk assessment, and special premises are being assigned to interview victims in police stations. Training actions for law enforcement officers have also been undertaken on violent crimes, sex crimes and hate crimes against LGBT persons. Efforts are ongoing to develop a reliable risk assessment tool for security forces in cases of domestic violence.

Specific training has been provided to judges and public prosecutors on child protection, combating cybercrime, family law, international protection of foreigners and the jurisprudence of the European Court of Human Rights, and information on relevant human rights topics has been made available in the internal web network for public prosecutors. In 2011, training activities for social workers have been organized on, inter alia, the rights of persons with disabilities and social services intervention in criminal proceedings. Staff of registry and notary departments has received training on service provision to persons with disabilities.

In addition to the above information, we recall that police stations are inspected by the Inspectorate General of Home Affairs (IGAI), which also receives complaints of illegal practices allegedly committed by police officers. We continue to believe that this body performs these duties with the necessary degree of independence. From January 2010 to June 2011, 45 unannounced inspecting visits were carried out, and no significant violations were found. Over the same period, 440 complaints of ill-treatment were received, 347 of which were dismissed after investigation; the others are still pending. There were also six complaints of racial discrimination, all of which dismissed after investigation. The Ombudsman also carries out inspections to places of detention and investigates cases, pursuant to complaints or on his own initiative. See also [recommendations n° 45, 49, 71 and 79].

International Instruments

Recommendation n°1: *Consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families as a way of allowing immigrants to enjoy all of the rights provided for in this international legal instrument (Recommended by Algeria)*

IRI: not implemented

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Recommendation n°48: *Sign and ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* (Recommended by Egypt)

IRI: *not implemented*

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Recommendation n°87: *Consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* (Recommended by Nigeria)

IRI: *not implemented*

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Recommendation n°93: *Consider ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and hold national consultations in this regard* (Recommended by Philippines)

IRI: *not implemented*

Ombudsman response:

The Portuguese Ombudsman is not aware of any changes to the position expressed by Portugal during its review.

Recommendation n°6: *Become a party to the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights* (Recommended by Argentina)

IRI: *not implemented*

State of Portugal response:

Portugal is fully committed to becoming a Party to, and to the early entry into force of, this Optional Protocol. The respective process of ratification is expected to be completed soon.

Ombudsman response:

In the last plenary meeting of the National Human Rights Commission (27th January 2012), in reply to questions raised by civil society representatives, it was indicated that the process leading to the ratification of the OP-ICESCR had been suspended due to the change in Government but that it was already in an advanced stage. Also, in its midterm review, Portugal affirmed that it was fully committed to becoming a Party to, and to the early entry into force of, the OP-ICESCR, expecting the ratification process to be completed soon. However, the Portuguese Ombudsman is not aware of any further developments. (note: The National Human Rights Commission is a governmental body working under the Ministry of Foreign Affairs that aims to ensure better coordination between ministries, both regarding the preparation of Portugal's position in international organizations on human rights and the fulfilment of its obligations on this matter. One of its competences is to propose that Portugal consents to be bound by international human rights instruments.)

Recommendation n°8: *Ratify the International Convention for the Protection of All Persons from Enforced Disappearance* (Recommended by Argentina)

IRI: *not implemented*

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Recommendation n°52: *Ratify as soon as possible the International Convention for the Protection of All Persons from Enforced Disappearance* (Recommended by France)

IRI: *not implemented*

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Recommendation n°66: *Ratify the International Convention for the Protection of All Persons from Enforced Disappearance* (Recommended by Japan)

IRI: *not implemented*

State of Portugal response:

We are also fully committed to becoming a Party to this Convention and expect that its process of ratification will soon be completed.

Ombudsman response:

The National Human Rights Commission's Plan of Activities for 2011-2012 establishes a list of instruments, the ratification of which the Commission will follow up on. This list includes the CED. In its midterm review, Portugal indicated that it was fully committed to becoming a Party to the CED and that it expected the process of ratification to soon be completed. However, the Portuguese Ombudsman is not aware of any further developments. (note: The National Human Rights Commission is a governmental body working under the Ministry of Foreign Affairs that aims to ensure better coordination between ministries, both regarding the preparation of Portugal's position in international organizations on human rights and the fulfilment of its obligations on this matter. One of its competences is to propose that Portugal consents to be bound by international human rights instruments.)

Recommendation n°9: *Ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families* (Recommended by Argentina)

IRI: *not implemented*

Ombudsman response:

The Portuguese Ombudsman is not aware of any changes to the position expressed by Portugal during its review.

Recommendation n°10: *Ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (Recommended by Argentina)

IRI: *not implemented*

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Recommendation n°27: *Ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (Recommended by Brazil)

IRI: *not implemented*

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Recommendation n°37: *Ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (Recommended by Chile)

IRI: *not implemented*

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Recommendation n°46: *Ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (Recommended by *Czech Republic*)

IRI: *not implemented*

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Recommendation n°53: *Ratify as soon as possible the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (Recommended by *France*)

IRI: *not implemented*

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Recommendation n°75: *Consider ratifying the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (Recommended by *Mauritius*)

IRI: *partially implemented*

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Recommendation n°104: *Ratify the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (Recommended by *Spain*)

IRI: *not implemented*

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Recommendation n°113: *Ratify in the near future the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment* (Recommended by *United Kingdom*)

IRI: *not implemented*

State of Portugal response:

We are equally committed to becoming a Party to OPCAT and the process of ratification thereof should also be completed soon. The Ombudsman shall be appointed as the national preventive mechanism given its vast experience in inspecting places of detention and the fact that it meets the requirements set out in the Protocol

Ombudsman response:

The Portuguese Ombudsman has on several occasions promoted the swift ratification of the OPCAT, confirming to the competent national authorities his availability to undertake the function of NPM, in light of the powers that he already has and the sustained work that he has developed over the years as regards the penitentiary system and the rights of inmates. In its UPR midterm review, Portugal indicated that the process of ratification of the OPCAT should be completed soon and that the Portuguese Ombudsman would be appointed as the NPM, given his vast experience in inspecting places of detention and the fact that it meets the requirements set out in the Protocol. At national level, the Ombudsman has indeed participated in meetings dedicated to this issue, pursuant to which he received some time ago the indication that a proposal was going to be sent to Parliament. However, proceedings seem to be delayed at this stage.

Recommendation n°36: *Ratify the International Convention on the Rights of Persons with Disabilities* (Recommended by *Chile*)

IRI: *fully implemented*



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Recommendation n°39: *Ratify as early as possible the International Convention on the Rights of Persons with Disabilities* (Recommended by *China*)

IRI: *fully implemented*

State of Portugal response:

The National Strategy on Disability (2011-2013) was approved in December 2010, based upon the UN Convention on the Rights of Persons with Disabilities, which Portugal ratified, together with its Optional Protocol, on 23 September 2009. This Strategy establishes a set of measures, targets and indicators in 5 areas: multiple discrimination; justice and exercise of rights; autonomy and quality of life; accessibility and universal design; modernization of administrative and information systems.

In October 2010, a project was launched with the view to create an independent observatory of the implementation of the Convention in Portugal, with the involvement of public and private partners (private Foundations, academic institutions). Research is being undertaken, and handbooks published, on such areas as women with disabilities, deinstitutionalization of children with disabilities, accessible tourism, availability of information on disability from public bodies and implementation of the International Classification of Functioning, Disability and Health (ICF) in health and social security inquiries. In 2011, a long term project on “Media and Disability” was launched, with the creation of a working group on the matter, the organization of a seminar, the launching of a website and a Facebook page, and the publication of a report.

Ombudsman response:

Portugal ratified the CRPD and the OP-CRPD [on 23rd September 2009](#).

Recommendation n°38: *Strengthen cooperation with human rights mechanisms, particularly treaty bodies* (Recommended by *Chile*)

IRI: *fully implemented*

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Recommendation n°101: *Regularly and in due time deliver reports to the respective treaty bodies regarding the implementation of conventions and optional protocols to which Portugal is a party* (Recommended by *Slovenia*)

IRI: *partially implemented*

State of Portugal response:

A National Human Rights Commission (NHRC) was created in March 2010, as announced in the UPR review of Portugal in December 2009, in order, inter alia, to work as a permanent structure to prepare national reports and examination processes by international human rights bodies, and to ensure continuous follow-up to recommendations addressed to Portugal by human rights mechanisms. This Commission coordinated the elaboration of the present mid-term review report, as well as of seven overdue reports to UN human rights treaty bodies, including the common core document, all of which have already been submitted. It also disseminates human rights information through a specific section created in the MFA website.



NHRC is an intergovernmental body composed by representatives of 12 government branches, but other public bodies participate in its work, including the Ombudsman (in its capacity as national human rights institution) and the Prosecutor General's Office (through the Office for Documentation and Comparative Law - GDDC). The involvement of civil society has also been a priority, and thus NCHR meets at least once a year in plenary format with NGO representatives, as was the case in January 2012 to discuss the follow up to UPR recommendations and the content of the present report.

Ombudsman response:

Pursuant to a commitment taken by Portugal in the framework of its UPR, a National Human Rights Commission was created in March 2010. This Commission is a governmental body that works under the Ministry of Foreign Affairs and aims to ensure better coordination between ministries, both regarding the preparation of Portugal's position in international organizations on human rights and the fulfilment of its obligations on this matter. It is composed of representatives of 12 governmental departments, but other public bodies may also participate in its work. Particularly, the Portuguese Ombudsman, in his capacity as National Human Rights Institution, has been invited to participate in plenary and working group meetings. The Commission may also invite representatives of NGOs and other elements of civil society to participate in its activity. To date, there have been 2 plenary meetings and a few working group meetings open to civil society representatives. Thus, the Commission can function as a broad forum for discussion and cooperation between national authorities and different actors engaged in human rights work at national level. The Commission can also help to strengthen interaction with international human rights bodies. For example, one of its competences is to ensure coordination and timely submission of reports on the implementation of human rights in Portugal, resulting from international obligations undertaken by Portugal. Since the beginning of its activity, the Commission has ensured the submission of several overdue reports to UN human rights treaty bodies.

Recommendation n°62: Take more concrete steps to improve the situation of persons with disabilities and ratify the International Convention on the Rights of Persons with Disabilities (Recommended by Iran)

IRI: partially implemented

State of Portugal response:

[See response to recommendation n° 36]

Ombudsman response:

Portugal ratified the CRPD and the OP-CRPD [on 23rd September 2009](#). Also, Council of Ministers Resolution 97/2010, which approves the National Strategy for Disability 2011-2013, was published in the Portuguese Official Journal on 14th December 2010. Stemming from the Action Plan for the Integration of Disabled Persons 2006-2009, it presents a set of multi-annual measures corresponding two 5 key areas: disability and multi-discrimination; justice and exercise of rights; autonomy and quality of life; accessibility and universal design; administrative modernization and information systems. The follow-up of the implementation and adequacy of the measures included in the Strategy will be carried out by and interdepartmental group.



The group shall deliver an annual report to be submitted to the National Council for Integration and Rehabilitation of Persons with Disability. The Ombudsman is not aware of any such reports having been produced to date. In the context of his own activity, the Ombudsman welcomes the acceptance by the Ministry of Health of his recommendation concerning the need to modify to process used to assess the level of disability of non-professional origin for granting access to measures and benefits aiming to ensure full integration in the community (the Ombudsman had deemed inadequate the use of the National Table of Disability Due to Work Accidents and Professional Diseases). Contrastingly, the Ombudsman deplors the obstacles still encountered in the correct attribution of the allowance for attendance of special education establishments, considering that it is urgent to revise the law that regulates this matter. It should be recalled that the Ombudsman has been receiving complaints on this issue since 2003, having issued a recommendation in 2008, which was partially accepted by the competent national authorities. However, in light of new complaints, the Ombudsman concluded that difficulties persist, due to the lack of clarity of the legislation in force.

Recommendation n°68: Extend the implementation of the recommendations issued by United Nations treaty bodies and by the Human Rights Council (Recommended by Libya)

IRI: -

State of Portugal response:

[See response to recommendation n° 38]

Recommendation n°90: Establish an effective and inclusive process to follow up on the recommendations of the Working Group (Recommended by Norway)

IRI: *fully implemented*

Ombudsman response:

The process of follow-up to Portugal's UPR is carried out in the framework of the National Human Rights Commission, a governmental body working under the Ministry of Foreign Affairs that aims to ensure better coordination between ministries, both regarding the preparation of Portugal's position in international organizations on human rights and the fulfilment of its obligations on this matter. It is composed of representatives of 12 governmental departments, but other public bodies may also participate in its work. Particularly, the Portuguese Ombudsman, in his capacity as National Human Rights Institution, has been invited to participate in plenary and working group meetings. The Commission may also invite representatives of NGOs and other elements of civil society to participate in its activity. To date, there have been 2 plenary meetings and a few working group meetings open to civil society representatives. Portugal's UPR midterm review report was discussed in one of those plenary meetings open to civil society.

Recommendation n°112: Facilitate the active involvement of civil society stakeholders, including human rights non-governmental organizations, in the follow-up to this review (Recommended by United Kingdom)

IRI: *fully implemented*

State of Portugal response:

[See response to recommendation n° 38]



Ombudsman response:

[See response to recommendation n° 90]

Justice

Recommendation n°12: *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* (Recommended by Argentina)

IRI: *not implemented*

Ombudsman response:

The Portuguese Ombudsman is not aware of any changes to the position expressed by Portugal during its review.

Recommendation n°16: *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* (Recommended by Austria)

IRI: *fully implemented*

State of Portugal response:

In April 2010, building on the work initiated in 2004 on prison system reform, the Code on the Enforcement of Sanctions and Measures involving Deprivation of Liberty entered into force, clearly indicating the ordinary and special security measures admitted in prison facilities for the maintenance of order and security. It was complemented by the General Regulation on Prison Facilities, approved in April 2011 and containing detailed provisions on the use of security measures. This new legislation has reinforced protection mechanisms for persons deprived of their liberty. Prisons are inspected by competent departments within the Ministry of Justice, namely coordinated by Public Prosecutors which open inquiries whenever there is any suspicion of excessive use of force or ill-treatment.

Special safeguards apply to inmates in particularly vulnerable situations. The judiciary police (PJ) has a disciplinary and inspection unit especially sensitive to problems related to the fight against serious and highly organized crime, and an inspection was carried out to PJ detention facilities in November 2010. Concerning the prosecution of offences, we recall that Portugal has accepted recommendations [n° 16, 33, 105, 115] “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.”

Ombudsman response:

In 2011, the entry into force of the new General Regulation on Prisons completed the reform of the penitentiary legal framework initiated in 2010 with the entry into force of the Code of Enforcement of Sentences and Measures Involving Deprivation of Liberty. Both legal instruments took on board several recommendations of the Portuguese Ombudsman. They strengthened the rights of inmates, increasing control by the public prosecutor of decisions taken by the penitentiary administration, as well



as the possibilities of appeal to a judge. In cases dealt with by the Ombudsman, the situations detected have always been subject to intervention of the inspective services of the General-Directorate of Prison Services and the Public Prosecution. The proposals made by the Ombudsman with regard to monitoring and control have also contributed to improve the situation, as was the case in a situation concerning the use of a Taser weapon to remove an inmate from his cell. In that case, the Ombudsman's suggestions, which concerned the need to strengthen control of the way in which coercive measures are used and to overcome the lack or insufficiency of documental evidence in many situations, were accepted in a decision of the Minister of Justice of March 2011.

Recommendation n°20: *Introduce appropriate law to prohibit racially motivated activities and to punish perpetrators of such acts, including law enforcement agents (Recommended by Bangladesh)*

IRI: fully implemented

Ombudsman response:

Portugal has a wide set of provisions that prohibit any form of discrimination based on race. In addition to article 13 of the Portuguese Constitution and the provisions of the ICERD, which Portugal has ratified, different laws strengthen this prohibition. In the Portuguese Criminal Code, article 240 establishes the crime of racial, religious or sexual discrimination. Racial discrimination is also an aggravating circumstance to some crimes, such as homicide and bodily injury (articles 132 and 145), but there is no general provision considering it an aggravating circumstance. Law 20/96, of 6th July, allows communities of immigrants and other associations that defend the interests at stake to be assistants to the prosecutor in criminal proceedings relating to racist or xenophobic crimes. Law 18/2006, which transposed Council Directive 2000/43/EC, of 29th June, establishes a legal framework to combat ethnic and racial discrimination and creates an administrative complaints procedure. Law 134/99, of 28th August, prohibits discrimination in the exercise of rights based on race, colour, nationality or ethnic origin. The Labour Code and the Employment Contract in Public Functions Regime also include provisions regarding equality and non-discrimination. Finally, the Statutes of different police forces establish among the special duties of agents to act without discrimination based on descent, sex, race, language, territory of origin, religion, political or ideological convictions, education, economic situation or social condition or sexual orientation.

Recommendation n°21: *Continue to build up comprehensive efforts aimed at eliminating trafficking in persons, both at the national and international levels (Recommended by Belarus)*

IRI: fully implemented

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Recommendation n°65: *Take measures to improve the efficiency of existing legislation in the area of trafficking in persons (Recommended by Italy)*

IRI: fully implemented

+



Recommendation n°84: *Evaluate measures taken with regard to the action plan concerning combating human trafficking and share its experiences and best practices with the international community* (Recommended by Netherlands)

IRI: *fully implemented*

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Recommendation n°95: *Enhance efforts to provide appropriate assistance to victims of human trafficking and utilize the OHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking as a reference* (Recommended by Philippines)

IRI: *fully implemented*

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Recommendation n°99: *Establish a system for clear registration of victims of trafficking in persons and spare no efforts to combat this evil* (Recommended by Russian Federation)

IRI: *partially implemented*

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Recommendation n°109: *Continue efforts to combat trafficking in human beings and prosecute traffickers* (Recommended by Ukraine)

IRI: *fully implemented*

State of Portugal response:

The implementation of the I National Action Plan against Trafficking in Human Beings 2007-2010 was the subject of internal and external evaluations that concluded that it significantly contributed to sensitize public opinion and decision-makers to the scourge of human trafficking. Evaluation reports were published. The II Plan is now in implementation under the lead of CIG, providing for increased support to projects developed by NGOs.

A system to facilitate the identification of, and assistance to, victims of trafficking is currently being implemented, including the development and wide dissemination of a “Victims Flagging Card” to help law enforcement officers and others identify and assist such victims. A standardized form or signalling guide must be filled out in any suspected cases of trafficking and such cases are reported to a multidisciplinary team or focal point, in person or via the SOS Immigrant support hotline.

Data obtained is forwarded to the Observatory of Trafficking in Human Beings (OTSH), which runs the national monitoring system comprising a platform where users can obtain information on national victim support structures. In 2011, 14 protocols were signed with governmental and non-governmental organizations on data collection and other forms of collaboration, and several NGOs are receiving training in this regard. In January 2012, OTSH started to collect data to enable tracking alleged trafficking cases throughout the entire legal and judicial process. Its website contains a wealth of information on human trafficking in Portugal.

Training activities are also being held to build the capacity of relevant professional groups (including law enforcement officers, labor inspectors, staff of national and local migrant support centers and social workers) to combat trafficking in persons and assist victims, including under the project UNODC Anti-Human Trafficking Manual for Criminal Justice Practitioners. Training activities for criminal justice



practitioners from Portuguese-speaking countries are foreseen for 2012. Furthermore, the OSCE Mission to Serbia/Astra Anti-Trafficking Manual for Journalists was translated and adapted, and a book with relevant legal instruments on trafficking in persons and violence against women is in preparation. The documentary film “Affected for Life” was translated into Portuguese and is used as an educational tool.

Finally, projects to enhance national and international cooperation in this area are being developed, namely on the prevention of, and response to, trafficking from Brazil to EU member States, and on the protection of the rights of migrants particularly against exploitation and trafficking in human beings. Concerning the prosecution of traffickers, we recall that Portugal has accepted recommendation 103.7 “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.”

Recommendation n°33: *Follow up on its commitment to modernize the justice system and the prison system to address reports of ill-treatment of prisoners* (Recommended by Canada)

IRI: fully implemented

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Recommendation n°105: *Continue and strengthen the efforts of the Government to ensure that law enforcement officials and prison guards do not use excessive force or mistreat inmates, by conducting thorough investigations into all such allegations and ensuring that perpetrators are brought to justice* (Recommended by Sweden)

IRI: fully implemented

State of Portugal response:

In April 2010, building on the work initiated in 2004 on prison system reform, the Code on the Enforcement of Sanctions and Measures involving Deprivation of Liberty entered into force, clearly indicating the ordinary and special security measures admitted in prison facilities for the maintenance of order and security. It was complemented by the General Regulation on Prison Facilities, approved in April 2011 and containing detailed provisions on the use of security measures. This new legislation has reinforced protection mechanisms for persons deprived of their liberty. Prisons are inspected by competent departments within the Ministry of Justice, namely coordinated by Public Prosecutors which open inquiries whenever there is any suspicion of excessive use of force or ill-treatment.

Special safeguards apply to inmates in particularly vulnerable situations. The judiciary police (PJ) has a disciplinary and inspection unit especially sensitive to problems related to the fight against serious and highly organized crime, and an inspection was carried out to PJ detention facilities in November 2010. Concerning the prosecution of offences, we recall that Portugal has accepted recommendations [n° 16, 33, 105, 115] “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.”

Ombudsman response:

In 2011, the entry into force of the new General Regulation on Prisons completed the reform of the penitentiary legal framework initiated in 2010 with the entry into force of the Code of Enforcement of Sentences and Measures Involving Deprivation of Liberty. Both legal instruments took on board several recommendations of the Portuguese Ombudsman. They strengthened the rights of inmates, increasing control by the public prosecutor of decisions taken by the penitentiary administration, as well as the possibilities of appeal to a judge. In cases dealt with by the Ombudsman, the situations detected have always been subject to intervention of the inspective services of the General-Directorate of Prison Services and the Public Prosecution. The proposals made by the Ombudsman with regard to monitoring and control have also contributed to improve the situation, as was the case in a situation concerning the use of a Taser weapon to remove an inmate from his cell. In that case, the Ombudsman's suggestions, which concerned the need to strengthen control of the way in which coercive measures are used and to overcome the lack or insufficiency of documental evidence in many situations, were accepted in a decision of the Minister of Justice of March 2011.

Recommendation n°54: Set up an independent national mechanism for the monitoring of detention facilities, which complies with the criteria laid down in the same protocol (Recommended by France)

IRI: partially implemented

Ombudsman response:

In its UPR midterm review Portugal indicated that the process of ratification of the OPCAT should be completed soon and that the Ombudsman would be appointed as the national preventive mechanism, given his vast experience in inspecting places of detention and the fact that it meets the requirements set out in the Protocol. At national level, the Ombudsman has indeed participated in meetings dedicated to this issue, pursuant to which he received some time ago the indication that a proposal was going to be sent to Parliament. However, proceedings seem to be delayed at this stage. In any case, it should be stressed that the Portuguese Ombudsman already has the competences and powers required by the OPCAT and, over the years, has developed a sustained work in the area of the penitentiary system and the rights of inmates, including through three own-initiative general inspections to Portuguese prisons. In 2011, the Ombudsman has also launched an own-initiative inspection to police stations of the Public Security Police, territorial units of the National Republican Guard and detention areas of the Judiciary Police, to assess the conditions in which the detention of citizens takes place and also the level of compliance with proceedings for reception of complaints, detention and protection of citizens.

Recommendation n°78: 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 (Recommended by Mexico)

IRI: partially implemented

State of Portugal response:

The electronic surveillance system has greatly developed in recent times in accordance with legislation approved in September 2010, in particular regarding the



implementation of house arrest measures in pre or post-trial phases. A plan to promote the use of such measures, including by raising the awareness to that tool of courts and pre-trial detainees, has been developed.

Ombudsman response:

In terms of legislative reform, the most recent evolution has been to extend the possibility of applying preventive detention (with changes introduced by Law 26/2010, of 30th August, in article 202 of the Criminal Procedure Code). Furthermore, while it is true that in the last few years there has been an increase in the application of alternative measures, such as prison by free days and the obligation to remain at home with electronic surveillance, still this was more a consequence of an increase in the overall number of prisoners, without really implying a reduction in the number of persons under preventive detention.

Recommendation n°89: *Ensure a clear definition in the law on internal security of appropriate and proportionate use of force by law enforcement officials in line with international standards (Recommended by Norway)*

IRI: *fully implemented*

State of Portugal response:

The principles of legality, necessity and proportionality must be respected in the execution of any policing measure, including concerning the use of force, as provided for, inter alia, in the Constitution. Such principles are also guaranteed, inter alia, by the regulation on the use of coercive means in prison services, approved in September 2009.

Ombudsman response:

The possibility to use force is subject to the principles of necessity, exigibility and proportionality. The Law on Internal Security (Law 53/2008, of 29th August), subjects the police measures envisaged therein to the principle of necessity and also specifies the cases in which security services and agents may use coercive means. The Deontological Code of Police Service establishes that security force members use coercive means that are adequate to restore legality and order, public security and tranquillity only when they are indispensable, necessary and sufficient for the good carrying out of their functions and other means of persuasion and dialogue have been exhausted. Thus, they should avoid using force save where it is expressly provided for in the law, except when the use is legitimate, strictly necessary, adequate and proportional to the aim pursued. In particular, they should only resort to the use of fire weapons as an extreme measure, when that is absolutely necessary, adequate, there is a proven danger to their lives or that of other persons and in other cases provided for in the law. Decree-law 457/99, of 5th November, that establishes the regime on the use of fire weapons and explosives by security services and forces, subjects the use of fire weapons to the principles of necessity and proportionality. The organic laws of each police force also contain provisions on this matter.

Recommendation n°91: *Further increase its efforts to ensure prompt, thorough and impartial investigations into all allegations of ill-treatment or excessive use of force by*



law enforcement officials, in order to bring those responsible for such acts to justice
(Recommended by Norway)

IRI: *partially implemented*

State of Portugal response:

In addition to the above information [see recommendation n° 16], we recall that police stations are inspected by the Inspectorate General of Home Affairs (IGAI), which also receives complaints of illegal practices allegedly committed by police officers. We continue to believe that this body performs these duties with the necessary degree of independence. From January 2010 to June 2011, 45 unannounced inspecting visits were carried out, and no significant violations were found. Over the same period, 440 complaints of ill-treatment were received, 347 of which were dismissed after investigation; the others are still pending. There were also six complaints of racial discrimination, all of which dismissed after investigation. The Ombudsman also carries out inspections to places of detention and investigates cases, pursuant to complaints or on his own initiative. See also [recommendations n° 5 and 49].

Recommendation n°107: Provide better health provisions in prisons (Recommended by Sweden)

IRI: *fully implemented*

State of Portugal response:

An inmate is, for all purposes, a user of the National Health Service and there is a Prison Hospital. Prison staff must include doctors and nurses and the latter must be present on a daily basis. General practitioners and experts in various medical areas must assist regularly.

Ombudsman response:

The Code of Enforcement of Sentences and Measures Involving Deprivation of Liberty expressly reiterates that inmates are users of the National Health Service. In his 2010 Report to the Parliament, the Portuguese Ombudsman noted an improvement resulting from the standardisation of conducts by the Manual of Procedures for the Provision of Health Care in Prisons. The Ombudsman also noted that medical consultation in prisons are increasingly performed by companies that provide medical services, which are bound by the procedures described in the Manual, establishing at least daily nursing services and medical services three times a week.

Recommendation n°115: Implement the 2004 guidelines and reforms in the prison system in Portugal and resolve the serious problems in prisons in an expeditious manner (Recommended by United States)

IRI: *partially implemented*

State of Portugal response:

In April 2010, building on the work initiated in 2004 on prison system reform, the Code on the Enforcement of Sanctions and Measures involving Deprivation of Liberty entered into force, clearly indicating the ordinary and special security measures admitted in prison facilities for the maintenance of order and security. It was complemented by the General Regulation on Prison Facilities, approved in April 2011 and containing detailed provisions on the use of security measures. This new legislation has reinforced protection mechanisms for persons deprived of their liberty.



Prisons are inspected by competent departments within the Ministry of Justice, namely coordinated by Public Prosecutors which open inquiries whenever there is any suspicion of excessive use of force or ill-treatment.

Special safeguards apply to inmates in particularly vulnerable situations. The judiciary police (PJ) has a disciplinary and inspection unit especially sensitive to problems related to the fight against serious and highly organized crime, and an inspection was carried out to PJ detention facilities in November 2010. Concerning the prosecution of offences, we recall that Portugal has accepted recommendation [n° 16, 33, 105, 115] “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.”

Ombudsman response:

From a legislative standpoint, pursuant to the revision of the Criminal Code and the Criminal Procedure Code in 2007, the Code of Enforcement of Sentences and Measures Involving Deprivation of Liberty was published in 2009 and entered into force in 2010. It was complemented in 2011 by the General Regulation on Prisons. Both legal instruments took on board several recommendations of the Portuguese Ombudsman. They strengthened the rights of inmates, increasing control by the public prosecutor of decisions taken by the penitentiary administration, as well as the possibilities of appeal to a judge. However, at the level of physical infrastructures, smaller prisons were closed but it was not possible to build an additional 3 prisons that would have allowed for the renewal of the prison network. The inmate population is at an accelerated growth, which hinders the conditions of the prison system. This was noted in the Ombudsman's 2011 Report to the Parliament, where it is mentioned that at least in part as a result thereof there had been an increase in complaints relating to lodging conditions and, to a smaller extent, to transfer requests. From an organisational standpoint, the prison and social reintegration services were recently merged.

Women & Children

Recommendation n°3: *Establish mechanisms to disseminate information about the consequences of acts of violence against children* (Recommended by Angola)

IRI: *partially implemented*

State of Portugal response:

A bill aimed at criminalizing school violence, including bullying, was recently adopted. Various public bodies and NGO active in the area of childhood develop awareness-raising and information activities, as well as other measures to prevent risk situations. A Guide for Law Enforcement Officers on the approach to abuse and other dangerous situations was prepared. Police forces participate in awareness-raising activities on the rights of the child within the Safe School and SEF goes to School programs and support local child and juvenile protection commissions. Specific



awareness-raising and training actions are undertaken to prevent drug addiction. See also [recommendations n° 28]

In 2010, the annual statistical report of the Observatory on Trafficking in Human Beings has begun to include a specific chapter on children. This Observatory has also participated in workshops for students and other professional groups, organized a conference on beggary and other forms of exploitation associated with children, and undertook awareness-raising initiatives on trafficking in women and children and sexual exploitation via the Internet, radio and TV.

Recommendation n°4: *Set up strategies and establish mechanisms which encourage victims of marital violence to denounce their aggressors before the judicial authorities* (Recommended by *Angola*)

IRI: *partially implemented*

State of Portugal response:

A nationwide prevention and victim protection strategy was implemented in the last decade, in partnership with civil society, with the view to create support structures for victims, namely counselling services and shelters. An Office was created to provide legal aid and counselling on alternative dispute resolution and access to law and courts; it signed protocols with different entities to ensure an appropriate implementation of legislation in this regard. A specific campaign aimed at encouraging the reporting of domestic violence was launched on November 2010 ("Who commits the crime of domestic violence is punished. Report"). This led to an empowerment of victims and consequent increase in the number of complaints registered by police forces: 27743 in 2008; 30543 in 2009; and 31235 in 2010.

Recommendation n°11: *Strengthen efforts to prevent and punish the crimes of child prostitution, pedophilia and child pornography* (Recommended by *Argentina*)

IRI: *partially implemented*

State of Portugal response:

Sex crimes against children have a specific criminal framework and are considered crimes of priority prevention and investigation. Adequate premises for the examination of victims of such crimes are being established in police stations. Early-warning procedures have been put in place for cases of disappearance of children under 14. Portuguese legislation has been amended in accordance with Council of Europe Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse, to require that any person applying for a job or activity, paid or unpaid, that involves regular contacts with children, exhibits his or her criminal record.

Casa Pia, public institution dedicated to the protection of children and youngsters at risk, developed an Integrated Project on the Prevention of Sexual Abuse (PIPAS), involving 2800 children and youngster and comprising the publication of a handbook with guidelines for action in cases of evidence of sexual abuse of children.

Recommendation n°14: *Ensure effective implementation of its programmes and policies against domestic violence, inter alia, through the continued provision of*



adequate funding and the creation of a monitoring mechanism (Recommended by Austria)

IRI: *partially implemented*

State of Portugal response:

A mechanism managed by CIG has been put in place to provide technical and financial support to measures aimed at achieving equality between women and men, including NGO initiatives to prevent and combat gender-based violence, provide training to relevant groups and assist victims.

Recommendation n°15: Provide special training to police officers and prosecutors dealing with cases of sexual and domestic violence against women (Recommended by Austria)

IRI: *fully implemented*

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Recommendation n°24: Further address the human rights challenges, strengthen the mechanisms and take appropriate measures to reduce the level of domestic violence, increase the representation of women in the decision-making bodies and provide human rights training for target groups like jurists, police, migrants, minority groups and media as a means of human rights promotion (Recommended by Bosnia & Herzegovina)

IRI: *partially implemented*

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Recommendation n°100: Disseminate information on the available remedies and expand its training programmes for judiciary and public officials to sensitize them to all forms of violence against women and measures to protect victims (Recommended by Slovenia)

IRI: -

State of Portugal response:

Efforts are underway to provide training on gender mainstreaming to senior public officials and legislators working in ministerial cabinets, and a Protocol to this effect was signed in 2009 with the institute responsible for providing training to Portuguese civil servants. Human rights issues are covered in the initial and ongoing training of, inter alia, judges and public prosecutors, police and border officers, prison staff and social workers.

Furthermore, specific training on domestic and/or sexual violence is provided to police agents, magistrates, education and health professionals, social workers, conflict mediators, intercultural mediators (under the II Plan for Immigrant Integration) and journalists, and such topics are also addressed in courses on humanities, social, criminal and health sciences. A significant number of police agents are receiving training on victim protection and risk assessment, and special premises are being assigned to interview victims in police stations. Training actions for law enforcement officers have also been undertaken on violent crimes, sex crimes and hate crimes against LGBT persons. Efforts are ongoing to develop a reliable risk assessment tool for security forces in cases of domestic violence.

Specific training has been provided to judges and public prosecutors on child protection, combating cybercrime, family law, international protection of foreigners



and the jurisprudence of the European Court of Human Rights, and information on relevant human rights topics has been made available in the internal web network for public prosecutors. In 2011, training activities for social workers have been organized on, inter alia, the rights of persons with disabilities and social services intervention in criminal proceedings. Staff of registry and notary departments has received training on service provision to persons with disabilities.

Recommendation n°28: *Strengthen efforts to prevent, combat and punish violence against women* (Recommended by *Brazil*)

IRI: *partially implemented*

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Recommendation n°30: *Continue 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* (Recommended by *Bulgaria*)

IRI: -

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Recommendation n°31: *Continue to combat domestic violence with a policy of prevention as a priority for its Government programme for 2009-2013* (Recommended by *Canada*)

IRI: *fully implemented*

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Recommendation n°34: *Continue enforcing measures to reduce violence against women* (Recommended by *Chile*)

IRI: *partially implemented*

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Recommendation n°51: *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* (Recommended by *France*)

IRI: -

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Recommendation n°70: *Consider strengthening efforts to combat violence against women, including domestic violence and trafficking in women and children, by, inter alia, ensuring the full implementation of related laws and legislation* (Recommended by *Malaysia*)

IRI: *partially implemented*

State of Portugal response:

The IV National Plan against Domestic Violence (2011-2013), whose implementation is coordinated by the Commission for Citizenship and Gender Equality (CIG), was approved in December 2010, comprising 50 measures in 5 areas: information, protection, prevention, qualification and investigation. It must be read in conjunction with other recently launched Plans, namely the IV National Plan for Equality (2011-2013), the II National Plan against Trafficking in Human Beings (2011-2013) and the II Plan for Immigrant Integration (2010-2013).

Prevention efforts include measures to reduce social acceptance of domestic and gender violence, promote equality, eliminate gender stereotypes and empower



women and girls, such as annual information campaigns for specific target groups, the promotion of local groups of juvenile animators to prevent violence in courtship, the dissemination of best practices of businesses in the area, and the granting of annual prizes to literature, theatre, cinema and journalism works. The involvement of different actors, including at the local level, is encouraged. Prevention of re-offending through work with perpetrators is an innovative area of intervention, and a 36-month pilot program in this area has been undertaken.

Domestic violence, specifically punished under the Criminal Code (CC), is prosecutable ex officio and a prevention and investigation priority. Concerning issues of “prosecution and punishment”, we recall that Portugal has accepted recommendation [n° 28] “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”. Protocols have been signed in order to facilitate and streamline experts’ reports on victims of domestic violence, and guidelines were developed to help courts assess the risk of re-occurrence of such violence (courts are receiving technical assistance in this area). Furthermore, data on the relationship between defendant and victim in murder crimes are now being processed.

Several awareness-raising campaigns have been carried out to inform victims of their rights and promote their ability to report, including a national campaign entitled “Show the Red Card To Domestic Violence” launched in April 2010. Specific training sessions have been undertaken, or are still ongoing, with specialized staff, such as social workers, security forces and teachers. See also [recommendations n° 4 and 103]

On 8 February 2011, the II Program of Action for the Elimination of Female Genital Mutilation (FGM) was adopted, involving new entities in the fight against this scourge and providing for measures in the areas of awareness-raising and prevention, support and integration, training, research and advocacy. Activities undertaken include the publication of a leaflet on FGM and the training of relevant professional groups. See also [recommendation n°3] (children), [recommendation n°21] (trafficking in persons) and [recommendation n°106] (protection of victims).

Recommendation n°40: *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* (Recommended by Cuba)

IRI: *partially implemented*

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Recommendation n°73: *Undertake to study the underlying causes of the street children phenomenon, including the scope of the problem, and consider developing comprehensive measures to address those causes* (Recommended by Malaysia)

IRI: *not implemented*

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Recommendation n°85: *Take all necessary measures to prevent children from living on the streets and protecting them against child labour and other risks they are exposed to* (Recommended by Netherlands)

IRI: *partially implemented*

State of Portugal response:

Portugal has developed and implemented a comprehensive policy to address the causes of children living on the streets, including by assisting families and addressing concerns related to adequate housing and access to education and health care. Project Rua, run in partnership with the NGO Institute for Child Support, continues to be implemented with a flexible approach aimed at effectively reaching, supporting and reinserting children, their families and communities, with a particular focus on situations of drug abuse and child prostitution. As a result, the phenomenon of children living on the streets has been gradually decreasing and is presently limited to few cases mainly in Lisbon. See also [recommendations n° 3, 28 and 71].

Recommendation n°42: *Adopt further measures to ensure the protection of the human rights of the children of persons in detention or prison* (Recommended by Czech Republic)

IRI: *partially implemented*

State of Portugal response:

Efforts are underway to provide juvenile detention centers with adequate conditions to accommodate and assist young pregnant women and those who give birth while in detention, including the elaboration of a procedural guide for centers with female residential units. Detainees can stay with their children up until 3 years of age or, exceptionally, until 5, provided that the other parent consents thereto and that this is deemed to be in the best interest of the child. Children cannot be subject to administrative detention, although they can be placed in temporary accommodation centers if staying with a caregiver. Units that receive children have special facilities and average stay therein is of 3 days.

Recommendation n°45: *Improve effective access to education for children with disabilities* (Recommended by Czech Republic)

IRI: *partially implemented*

State of Portugal response:

The National Strategy on Disability [see recommendation n° 32] foresees measures to improve access to education of children with disabilities, including by promoting the inclusion of persons with disabilities in the education system, ensuring the training of specialized staff and disseminating good practices.

Ombudsman response:

Council of Ministers Resolution 97/2010, which approves the National Strategy for Disability 2011-2013, was published in the Portuguese Official Journal on 14th December 2010. Stemming from the Action Plan for the Integration of Disabled Persons 2006-2009, it presents a set of multi-annual measures corresponding to 5 key areas: disability and multi-discrimination; justice and exercise of rights; autonomy and quality of life; accessibility and universal design; administrative modernization and information systems. The National Strategy includes measures regarding education, such as strengthening the specific training of special education teachers



and continuing with the process of deinstitutionalisation of children with special education needs. The follow-up of the implementation and adequacy of the measures included in the Strategy will be carried out by an interdepartmental group. The group shall deliver an annual report to be submitted to the National Council for Integration and Rehabilitation of Persons with Disability. The Ombudsman is not aware of any such reports having been produced to date. In the context of his own activity, the Portuguese Ombudsman deplors that obstacles are still encountered in the attribution of the allowance for attendance of special education establishments, considering that it is urgent to revise the law that regulates this matter. It should be recalled that the Ombudsman has been receiving complaints on this issue since 2003, having issued a recommendation in 2008, which was partially accepted by the competent national authorities. However, in light of new complaints, the Ombudsman concluded that difficulties persist, due to the lack of clarity of the legislation in force.

Recommendation n°59: *Develop a comprehensive national strategy soon on the implementation of the Convention on the Rights of the Child, as highlighted by the Committee on the Rights of the Child (Recommended by Iran)*

IRI: *partially implemented*

State of Portugal response:

The Initiative for Childhood and Adolescence 2009-2010 (INIA) is the national mechanism responsible for covering the full range of children's rights in an integrated way, providing technical support with the participation of all concerned actors, including all ministries, key departments and organizations with competence on childhood and adolescence. An extensive consultation process was held prior to the establishment of INIA, with public online hearings and the participation of children, parents, caregivers and relevant professionals, as well as public services and other relevant organizations. Ten strategic goals were defined, taking into account the basic tenets of the Convention on the Rights of the Child: participation and citizenship; awareness-raising, training and access to information; family and alternative families; health; economic resources; social services; housing, urban planning and environment; education, leisure and cultural activities; and special protection.

NGOs also continue to play an important role in the promotion and protection of the rights of the child, including with the support of public authorities: the Institute for Child Support (IAC), for instance, has continued to operate a SOS hotline for children at risk (SOS Criança), as well as a hotline for reporting cases of missing children. It also develops school mediation activities by supporting Student and Family Support Offices in schools.

Recommendation n°71: *Continue strengthening efforts to ensure respect for the right to non-discrimination of children in the country, in particular children and families living in poverty and children of minority groups, including the Roma (Recommended by Malaysia)*

IRI: *fully implemented*

State of Portugal response:

Program "Choices" (see [recommendations n° 5]) plays an important role in this regard and 66 projects thereunder are being implemented throughout the country,



including with a view to provide alternative curricula, find new school approaches for children of itinerant and/or migrant background, and enhance the benefits of intercultural living (eg. through the organization of holiday camps, project exchanges, parental training activities, school and family mediation and thematic meetings).

Recommendation n°102: *Extend policies and strategies of gender equality to all levels of the public administration, including affirmative measures for women in all ministries* (Recommended by Spain)

IRI: partially implemented

State of Portugal response:

Mainstreaming gender equality at all levels of Public Administration remains a strong political commitment, as established, inter alia, in the IV National Plan for Equality. In 2011, all ministries approved gender equality plans with the view to include a gender perspective in all their internal and external activities. Several protocols were signed with local authorities, leading to the adoption of municipal plans for equality (comprising, for instance, the creation of shelters for victims of domestic violence). Equality advisors are being appointed in each Ministry and local authority. Since 2009, books have been published with guidelines for equality plans adopted by central and local authorities and by business companies, and on language promoting equality between women and men in Public Administration.

Recommendation n°103: *Implement educational measures from early childhood rejecting all types of domestic violence and promote the reporting of cases of domestic violence* (Recommended by Spain)

IRI: partially implemented

State of Portugal response:

The IV National Plan Against Domestic Violence foresees measures, including preventive measures (see above) targeted at children and youngsters and, in this regard, several initiatives were undertaken in articulation with the education system and youth associations, including awareness-raising initiatives in schools to combat violence within courtship relationships and the introduction in school curricula, from the earliest grades, of modules and references relating to gender equality and to domestic and gender-based violence. Guidelines on community policing address awareness-raising activities in school communities to prevent and combat all forms of violence against women.

ILGAE response:

There is no specific programme that explicitly includes domestic violence against LGBT youth or same-sex couples.

Recommendation n°106: *Facilitate prosecution of domestic violence and implement improved measures for protection of victims* (Recommended by Sweden)

IRI: partially implemented

State of Portugal response:

Combating violence against women remains a priority for Portugal, as reaffirmed by Parliament in 2009 and reflected, inter alia, in the IV National Plan against Domestic Violence. The Council of Europe Convention on preventing and combating violence



against women and domestic violence was signed by Portugal on 11 May 2011 and its process of ratification is underway.

The consolidation of the victim protection system is sought through such measures as: enhanced coordination between civil and criminal courts in divorce or child custody cases and in cases of domestic violence, with the view to prevent re-victimization; standardization of procedures for reporting and collecting information, including the creation of a database; improvement of screening and diagnostic mechanisms, namely for pregnant women; dissemination of pilot projects in the areas of health, remote assistance to victims and mutual support groups; provision of shelters to victims within existing social responses; and facilitation of victims' access to housing (such cases are already considered a priority in some re-housing schemes, eg. in Azores).

Other measures include the priority access of children of victims of domestic violence to child support services, the development of intervention strategies for particularly vulnerable victims such as elderly persons, migrants, children, persons with disabilities and LGBT, and the promotion of victims' access to professional training and the labor market through the appointment of focal points in employment centers. There are also measures to prevent the recurrence of domestic violence by working with perpetrators (the National Plan requires that prisons implement specific individualized programs to this effect), providing adequate training to all relevant professionals, and researching on and monitoring the problem of domestic violence.

The II Plan for Immigrant Integration seeks to guarantee that migrants victims of, inter alia, domestic violence receive legal support, and that autonomous residence permits can be granted to members of reunified families who are victims of domestic violence. It also aims at preventing all forms of gender violence, including domestic violence and FGM, namely by providing information to men and women, producing information materials in several languages, creating discussion fora and using the media.

A number of measures have been introduced to regulate aspects covered by the Act on the prevention of domestic violence, and on the protection of and assistance to its victims, adopted in September 2009 and an important milestone since it introduces such important measures as: the recognition of the status of victim (to all alleged victims no sooner than domestic violence is reported, provided that there is no strong evidence that such claim is unfounded); the urgent nature of domestic violence proceedings; the use of technical means to remotely control perpetrators and assist victims; the possibility to arrest the perpetrator even if not caught in the act; the right of victims to redress; and the provision of legal, medical, social and labor support. Legal counseling to victims of domestic violence shall be provided by a lawyer appointed by the Bar Association, upon request from social security services.

The Code of Criminal Procedure now expressly requires that Public Prosecution informs victims of, inter alia, domestic violence of available public and private support services and of compensation options at their disposal. A Commission for the Protection of Crime Victims has been created in October 2010 with the mandate to



ensure advance payment of compensation by the State to victims of violent crimes and domestic violence. The victim shall be informed of the main judicial decisions affecting the aggressor's status. The use of video surveillance methods (both as an injunction and a penalty) shall take into account the compatibility of such methods with the victim's circumstances, and victim support services shall be informed of relevant details concerning the implementation of such methods. Police forces are also making efforts to closely monitor the problem of domestic violence and a national project (Project IAVE) is being implemented with the view to protect and support, inter alia, women, children, the elderly and persons with disabilities.

Recommendation n^o114: *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* (Recommended by United States)

IRI: *partially implemented*

State of Portugal response:

Overall, the evolution of child labor in Portugal has been positive: 233 cases were detected in 4736 visits carried out in 1999, compared with 6 cases detected in 804 visits undertaken in 2010. Until 2010, most cases were found in the building industry and, more recently, in commerce. An inspection campaign was recently undertaken to the entertainment industry, comprising 202 inspecting visits and finding 20 breaches, which lead to fines and reports to competent monitoring and social support services.

This evolution was possible only due to the creation of specific structures in the area, such as the Plan for the Elimination for Child Labour, as well as to general support measures such as the Social Insertion Income. The Integrated Program for Education and Training, which aims at enabling children to obtain a school and/or professional training certificate, also plays an important role in this regard, as one of its top priorities are children working illegally. In July 2011, 189 classes with a total of 2852 students were registered under this Program in continental Portugal; 17% of students (478) were of Roma origin.

Other

Recommendation n^o49: *Take concrete steps towards the establishment of a national human rights institution in conformity with the Paris Principles* (Recommended by Egypt)

IRI: *fully implemented*

+

Recommendation n^o57: *Consider establishing a separate national human rights institution at the very earliest* (Recommended by India)

IRI: *fully implemented*

+



Recommendation n°72: *Intensify efforts to implement its express commitment to establish a national human rights institution in accordance with the Paris Principles* (Recommended by *Malaysia*)

IRI: *fully implemented*

+

Recommendation n°80: *Strengthen efforts to implement its express commitment to establish a national human rights institution in accordance with the Paris Principles* (Recommended by *Mexico*)

IRI: *fully implemented*

State of Portugal response:

The Ombudsman is a National Human Rights Institution, with A-status accreditation since 1999, constitutionally and legally mandated to defend and promote citizens' rights, freedoms, guarantees and legitimate interests, taking as a reference the Constitution, relevant laws and regulations and the various international instruments binding upon Portugal. The Ombudsman works primarily by investigating cases, either pursuant to complaints or on his own initiative, and may carry out inspection visits and issue recommendations to administrative or legislative bodies. He may also request Constitutional Court review. In 2010, the Ombudsman received 6488 complaints, mostly related to social rights, the rights of workers and administration of justice. It issued 22 recommendations (10 accepted by the end of the year), requested Constitutional Court review in 2 cases and carried out 4 inspections: to child support institutions in Madeira; to detention centers for migrants; to elderly homes; and to employment centers. Public entities have a strong duty to cooperate with the Ombudsman.

The Ombudsman also provides information and advice, namely through toll-free hotlines for children and elderly persons (and experimentally also for persons with disabilities). Furthermore, it is specifically mandated to promote human rights education and thus organizes and participates in seminars and conferences, undertakes awareness-raising activities in schools (a protocol to this effect was signed in May 2011), publishes studies and reports, and distributes information materials. Efforts are made to promote the establishment of Ombudsmen or other national human rights institutions in Portuguese-speaking countries, if applicable. See also 101.30-32.

Ombudsman response:

The Portuguese Ombudsman is Portugal's National Human Rights Institution, with A-status accreditation by the ICC since 1999, in full compliance with the Paris Principles.

Recommendation n°61: *Develop a national human rights plan in accordance with the Vienna Declaration and Programme of Action* (Recommended by *Iran*)

IRI: *not implemented*

Ombudsman response:

In its UPR review, Portugal indicated that it could not prejudge the discussions to be held by the National Human Rights Commission on this point. However, despite the fact that the meetings of the National Commission begun in September 2010, thus far the Portuguese Ombudsman is not aware of any further developments on this issue.



Recommendation n°67: *Ensure the full implementation of all rights enshrined in the Constitution and in the existing legislation* (Recommended by Libya)

IRI: *partially implemented*

State of Portugal response:

Other measures undertaken during the reporting period include the publication of a book on the fundamental rights enshrined in the Portuguese Constitution and the development of a project to facilitate birth registration shortly after birth. Measures were also taken in order to facilitate contacts with public administration and other services, including on the part of persons with disabilities and migrants: this includes inspection visits and signing of Protocols to facilitate access to registries and notary offices, the installation of central civil registry desks at National Immigrant Support Centers, and the creation of online registry services, of a registry support hotline and of single service points for real estate, inheritance and divorce purposes.

Portugal has actively promoted equal access to, and enjoyment of, cultural goods and services, namely by supporting the arts and by investing in cultural infrastructures, such as public libraries and theatres, also outside the main urban centers. Furthermore, instruments have been developed to facilitate widespread access to cultural heritage, such as projects “Espelho Meu” (providing children with books to facilitate museum exploring) and “MATRIZ” (enabling online access to tangible and intangible heritage items in museum collections). A Program (INOV-ART) is in implementation to promote international internships for young people in the fields of the arts and culture. Various cultural initiatives have been developed in partnership between public bodies and civil society, namely involving groups such as the Roma and persons with disabilities. Equally relevant has been the production of cultural materials in line with a spirit of inclusiveness.

Recommendation n°69: *Respect the Paris Principles and put in place national mechanisms and institutions to monitor and follow up on the implementation of its international obligations* (Recommended by Libya)

IRI: *fully implemented*

State of Portugal response:

[See recommendation n° 49]

Ombudsman response:

The Portuguese Ombudsman is Portugal's National Human Rights Institution, with A-status accreditation by the ICC since 1999, in full compliance with the Paris Principles. His main function is to defend and promote the rights, freedoms, guarantees and legitimate interests of the citizens, ensuring, through informal means, that public authorities act fairly and in compliance with the law. The legal framework against which the Ombudsman appraises the legality and fairness of legislation, policies and administrative activity includes not only domestic law, but also relevant international instruments and standards to which Portugal is bound. In this sense, the very nature of the work of the Ombudsman allows him to monitor the implementation of Portugal's international obligations, namely in the area of human rights. Further to this, the Ombudsman regularly provides to international and national bodies information on his own activity, for the purposes of assessing the situation in Portugal



as regards the implementation of human rights. At governmental level, a National Human Rights Commission was created in 2010, as a governmental body working under the Ministry of Foreign Affairs to ensure better coordination between ministries, both regarding the preparation of Portugal's position in international organizations on human rights and the fulfilment of its obligations on this matter. Its competences include to monitor the follow-up given by different ministries to Portugal's international human rights obligations, to propose the adoption of internal measures necessary to comply with those obligations and to ensure coordination and timely submission of reports on the implementation of human rights in Portugal, resulting from international obligations assumed by the Portuguese State. As regards independent monitoring mechanisms envisaged in certain UN instruments, the Ombudsman notes that, to date, neither the OPCAT nor the CRPD mechanism have been established in Portugal. In the case of the OPCAT, Portugal indicated in its UPR midterm review that the process of ratification should be completed soon and that the Portuguese Ombudsman would be appointed as the NPM, given his vast experience in inspecting places of detention and the fact that it meets the requirements set out in the Protocol. However, while at national level the Ombudsman has indeed participated in meetings dedicated to this issue, pursuant to which he received some time ago the indication that a proposal was going to be sent to Parliament, proceedings seem to be delayed at this stage. As regards the CRPD, which has already been ratified by Portugal, the Ombudsman manifested his availability to, together with other entities, integrate the structure for the promotion, protection and monitoring of the United Nations Convention on the Rights of Persons with Disabilities, the creation of which this instrument foresees.



Methodology

A. First contact

Although the methodology has to consider the specificities of each country, we applied the same procedure for data collection about all States:

1. We contacted the Permanent Mission to the UN either in Geneva (when it does exist) or New York;
2. We contacted all NGOs which took part in the process. Whenever NGOs were part of coalitions, each NGO was individually contacted;
3. The National Institution for Human Rights was contacted whenever one existed.

We posted our requests to the States and NHRI, and sent emails to NGOs.

The purpose of the UPR is to discuss issues and share concrete suggestions to improve human rights on the ground. Therefore, stakeholders whose objective is not to improve the human rights situation were not contacted, and those stakeholders' submissions were not taken into account.

However, since the UPR is meant to be a process which aims at sharing best practices among States and stakeholders, we take into account positive feedbacks from the latter.

B. Processing the recommendations

The persons we contact are encouraged to use an Excel sheet we provide which includes all recommendations received by the State reviewed.

Each submission is processed, whether the stakeholder has or has not used the Excel sheet. In the latter case, the submission is split up among recommendations we think it belongs to. Since such a task is more prone to misinterpretation, we strongly encourage stakeholders to use the Excel sheet.

If the stakeholder does not clearly mention neither that the recommendation was “fully implemented” nor that it was “not implemented”, UPR Info usually considers the recommendation as “partially implemented”, unless the implementation level is obvious.

UPR Info retains the right to edit comments that are considered not to directly address the recommendation in question, when comments are too lengthy or when comments are defamatory or inappropriate. While we do not mention the



recommendations which were not addressed, they can be accessed unedited on the follow-up webpage.

C. Implementation Recommendation Index (IRI)

UPR Info developed an index showing the implementation level achieved by the State for the recommendations received at the UPR.

The **Implementation Recommendation Index (IRI)** is an individual recommendation index. Its purpose is to show an average of stakeholders' responses.

The *IRI* is meant to take into account stakeholders disputing the implementation of a recommendation. Whenever a stakeholder claims nothing has been implemented at all, the index score is 0. At the opposite, whenever a stakeholder claims a recommendation has been fully implemented, the *IRI* score is 1.

An average is calculated to fully reflect the many sources of information. If the State under Review claims that the recommendation has been fully implemented, and a stakeholder says it has been partially implemented, the score is 0.75.

Then the score is transformed into an implementation level, according to the table below:

Percentage:	Implementation level:
0 – 0.32	Not implemented
0.33 – 0.65	Partially implemented
0.66 – 1	Fully implemented

Example: On one side, a stakeholder comments on a recommendation requesting the establishment of a National Human Rights Institute (NHRI). On the other side, the State under review claims having partially set up the NHRI. As a result of this, the recommendation will be given an *IRI* score of 0.25, and thus the recommendation is considered as “not implemented”.

Disclaimer

The comments made by the authors (stakeholders) are theirs alone, and do not necessarily reflect the views, and opinions at UPR Info. Every attempt has been made to ensure that information provided on this page is accurate and not abusive. UPR Info cannot be held responsible for information provided in this document.



Uncommented recommendations

Hereby the recommendations which the MIA did not mention:

rec. n°	Recommendation	SMR	Response	A	Issue
44	Begin a national consultation process with governmental and nongovernmental actors on the most appropriate national preventive mechanism and establish its national preventive mechanism accordingly	Czech Republic	Accepted	4	Civil society
63	Undertake a comprehensive set of measures to tackle racism and racial discrimination and to combat more resolutely all its forms and manifestations	Iran	Accepted	4	Racial discrimination
76	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	Mauritius	Accepted	4	Women's rights, Treaty bodies,
83	Continue efforts to promote and protect rights of minorities, especially with regard to the Roma	Netherlands	Accepted	2	Minorities
92	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	Norway	Accepted	4	Women's rights, Rights of the Child, Minorities,
94	Enhance efforts to combat domestic violence	Philippines	Accepted	4	Women's rights, Rights of the Child,
97	Encourage the Government to ensure prompt and independent investigations and accountability for any violations of human rights as well as adequate compensation for the victims thereof	Republic of Korea	Accepted	4	Justice
108	Strengthen its efforts to ensure that the laws prohibiting violence against women and children are enforced	Sweden	Accepted	4	Women's rights, Rights of the Child,

A= Action Category (see on [our website](#))

SMR = State making recommendation

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