



**International Convention on  
the Elimination of All Forms  
of Racial Discrimination**

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**Committee on the Elimination of Racial Discrimination**

**Reports submitted by States parties under article  
9 of the Convention**

**Twelfth to fourteenth periodic reports of States parties due in  
2009\***

**Portugal\*\* , \*\*\***

[19 January 2011]

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\* This document contains the twelve, thirteenth and fourteenth periodic reports of Portugal, due on 2005, 2007 and 2009 respectively, submitted in one document. For the tenth and eleventh periodic reports and the summary records of the meetings at which the Committee considered the report, see document CERD/C/447/Add.1 and CERD/C/SR.1660 and 1661.

\*\* This document was submitted along with the core document and should be read with HRI/CORE/PRT/2011.

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## I. Introduction

### General remarks, country profile, demographic composition of the population

1. Portugal is a country located in South-Western Europe. Its territory comprises, besides a Continental part on the Iberian Peninsula, two Autonomous Regions located in the archipelagos of the Azores and Madeira. For an area of 8,9045.1 km<sup>2</sup> on the European Continent, of 2,321.9 km<sup>2</sup> in the Azores and of 784.8km<sup>2</sup> in Madeira, Portugal has a resident population of 10 356 117 (112.4 inhabitants per square kilometre), of which 9 869 343 (110.8 inhabitants per square kilometre) in the Continent, 241 763 (104.1 inhabitants per square kilometre) in the Azores and 245 011 (312.2 inhabitants per square kilometre) in Madeira.<sup>1</sup>

2. Portugal is a unitarian country in terms of its population. Except for a Roma community of around 40 000 to 60 000 inhabitants,<sup>2</sup> there are no ethnic minorities, recognised as such, in the country. In 2008, although about 440 277 immigrants lived in Portugal,<sup>3</sup> they were not acknowledged as ethnic minorities but rather as foreigners.<sup>4</sup>

3. Except for the *mirandês*, a language spoken by the community of Miranda do Douro in the Northern part of the country whose existence as an autonomous language has been recognized by Law No. 7/99 of 29 January 1999 — recognising the rights of speakers of this language (notably as regards the right for students of primary and secondary education to follow courses in this language) —, there are no other minority languages.

4. The predominant religion in Portugal is the Christian faith in its Roman-Catholic dimension. However, Portugal has proclaimed itself as a non-confessional, laic State. All religions have their place in the country's legal and social system.<sup>5</sup> In addition, as part of the Portuguese integration policy, a service for inter-religious dialogue has been created, acknowledging the importance of respecting and promoting dialogue between all forms of religious faith.<sup>6</sup>

<sup>1</sup> Data from the 2001 Census carried out by the *Instituto Nacional de Estatística (INE)*.

<sup>2</sup> This is an academic estimation because, due to a legal rather than constitutional requirement, it is still not possible to effect census on persons according to their race or ethnicity. Accordingly, whenever a foreigner acquires Portuguese citizenship, he/she disappears from official statistics.

<sup>3</sup> Official data from the Foreigners and Borders Service, SEF, reported that in 2008 there were 440 277 foreigners with a legal status. According to these figures, the most significant foreigner groups were: Brazilians, with 106 961 citizens; 52 494 from Ukraine; 51 352 from Cape Verde; 27 769 from Romania; 27 619 from Angola; and 24 391 from Guinea-Bissau. For more details, please see: <http://www.sef.pt/documentos/59/RIFA%202008%20Final.pdf#1>.

<sup>4</sup> See data of the Foreigners and Borders Service, SEF, appended to this report.

<sup>5</sup> See, in particular, the Law on Religious Freedom, Law No. 16/2001 of 2<sup>nd</sup> June 2001. For a complete sight on the legislative texts, see "*Liberdade Religiosa*", in [www.gddc.pt](http://www.gddc.pt) ([www.gddc.pt/direitos-humanos/portugal-dh/legislacao-portuguesa.html#d](http://www.gddc.pt/direitos-humanos/portugal-dh/legislacao-portuguesa.html#d)).

<sup>6</sup> The Structure for Religious Dialogue was integrated as part of the High Commission for Immigration and Intercultural Dialogue, ACIDI (the Portuguese State Institute competent for the integration of immigrants and Roma communities in Portugal) in 2007, by Decree-Law No. 167/2007 of 3<sup>rd</sup> May 2007. More details at [http://www.acidi.gov.pt/docs/ACIDI/Lei\\_organica\\_ACIDI.pdf](http://www.acidi.gov.pt/docs/ACIDI/Lei_organica_ACIDI.pdf).

## II. Information in connection with articles 1–7 of the Convention

### Article 1

#### 1. Assessment of the compliance of the definition of racial discrimination in domestic law with the definition provided in article 1 (1) of the Convention

5. The compliance of the definition of racial discrimination in domestic law with the definition provided in article 1 (1) of the Convention has been addressed in previous reports submitted by Portugal on the application of the Convention, of which the latest had the reference CERD/C/447/Add.1.<sup>7</sup> It should be noted that, according to article 16 (1) of the Portuguese Constitution, the definition provided by the Convention is part of the Portuguese Constitutional Law.

6. Further to the EU Directive 2000/43/EC, Portuguese law distinguishes between direct and indirect discrimination. This Directive has been transposed into national law by the Labour Code of 2003 (Law No. 99/2003 of 27 August 2003) and by Law No. 18/2004.<sup>8</sup> This distinction is also made in articles 23 *et seq.* of the new Labour Code adopted by Law No. 7/2009 of 12 February 2009.

7. As regards the access of aliens to public life, recent changes in the Constitution led to a substantial equalization of foreigners to Portuguese citizens. Article 15 of our Fundamental Law only excludes certain political rights, the exercise of public offices that are not predominantly technical in nature, and the specific rights that the Constitution reserves to Portuguese citizens (article 15, par.2). Foreigners may vote and stand for election at municipal and local elections and at elections for the European Parliament as far as EU citizens are concerned.<sup>9</sup> An important change is that, in the case of citizens from Portuguese-speaking countries permanently residing in Portugal, the Law may recognise them rights that are not granted to aliens, except for access to the offices of President of the Republic, President of Parliament, Prime Minister, President of any of the Supreme Courts and service in the armed forces and in the diplomatic career (art. 15, par. 3).

#### 2. Special measures to secure the advancement of groups or individuals protected under the Convention

8. Decree-Law No. 324/2007 of 28 September 2007 grants any couple the possibility of getting married under the form prescribed by its own faith.<sup>10</sup>

### Article 2

#### 1. Legal framework and general policies to eliminate racial discrimination

9. Article 13 of the Constitution of the Portuguese Republic sets the principle of equality and non discrimination. Article 5 of the Code of Administrative Procedure sets the

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<sup>7</sup> The other reports go back to 1998/99 and have the following references: 5<sup>th</sup>, 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> reports, CERD/C/314/Add.1; 9<sup>th</sup> report CERD/C/357/Add. 1; the latest reports quoted are the 10<sup>th</sup> and 11<sup>th</sup> reports.

<sup>8</sup> For an interesting overview of the Portuguese legislation on the matter, see Númena, National Annual Report of the National Focal Point of the European Monitoring Centre on Racism and Xenophobia, October 2007 (Bruno Dias, Alexandra Castro, Tiago Farinha, Mónica Ribeiro, Edite Rosário and Elisa Silva), p. 10 *et seq.*

<sup>9</sup> As regards these questions, see the previous reports of Portugal mentioned above.

<sup>10</sup> See Númena, National Annual Report quoted above, page 13, par. 8.

rule that public authorities or institutions, be they national or local, are forbidden to act towards citizens under racial discrimination criteria. A complaint to the Ombudsman and judicial proceedings before courts are also admissible approaches to these kinds of violations.<sup>11</sup>

10. The High Commission for Immigration and Intercultural Dialogue (ACIDI), having replaced the High Commission for Immigration and Ethnic Minorities (ACIME), is competent in the fight against racial discrimination in Portugal (see article 2 (c) of the Convention), through the Commission for Equality against Discrimination (“CICDR”). The CICDR comprises the High Commissioner, who presides it, two representatives elected by Parliament, two representatives of the Government to be chosen by the Government Departments responsible for employment, solidarity and social security and education; two representatives of immigrant associations, two representatives of anti-racist associations, two representatives of Trade Unions, two representatives of employers’ associations, two representatives of human rights’ organizations and three personalities to be designated by other members.

11. In addition, the legislation adopted in 1999 and, later, the transposition to national law of the EU 2000 Directives on equality and non-discrimination have played an important role in the creation of a legal framework in this context. The Directive against Racial Discrimination was transposed by the Labour Code and by Law No. 18/2004 of 11 May 2004,<sup>12</sup> providing for procedures and sanctions of an administrative nature, as mentioned in the previous reports to the CERD, as well as for the possibility to engage the liability in tort for racially motivated acts such as the denial of access to goods and services, and to bring to an end any behaviour that might be prejudicial or threatening to the person.<sup>13</sup>

12. An important change is the new wording of article 240 of the Criminal Code,<sup>14</sup> whereby the offence of discrimination now covers discrimination on grounds of gender and sexual orientation.<sup>15</sup> Another important change is that article 246 of the Criminal Code now provides that a person convicted for discrimination (article 240) may be temporarily deprived of his/her active and/or passive electoral capacity.<sup>16</sup>

13. Article 71 of the Criminal Code, on how to determine the measure of the penalty, should also be mentioned. This determination is made, within legally defined limits, on the basis of the offender’s guilt and of prevention needs. According Article 71 (2) of the Criminal Code, when determining the extent of the penalty, the Court should take account of the circumstances that, though not part of the offence, may be favourable or unfavourable to the offender’s status, namely feelings expressed when committing the offence, as well as the aims or the motivation having determined the offence. The judicial decision must clearly mention the reasons behind the extent of the penalty imposed. This

<sup>11</sup> In each case, in the past, where that might have happened, legality prevailed, as was the case of the behaviour of the Mayor of Vila Verde mentioned in the report submitted by Portugal to the CERD. Lately — and cases of this kind have been mentioned in the reports to the CERD — there has not been any case of this kind.

<sup>12</sup> It arises from changes introduced by Law No. 18/2004 of 11 May 2004 that the legal framework in the administrative area derives, first of all, from this Law and, on a subsidiary basis, from Law No. 134/99 of 31 August 1999 and from the general legal regime of administrative infringements. Therefore, Decree-Law No. 111/2000 of 4 July 2000 having provided for the regulation of the 1999 Law, is no more in force. See as well article 2, point C.

<sup>13</sup> Articles 483 and 70 of the Portuguese Civil Code.

<sup>14</sup> Introduced by Law No. 59/2007 of 4 September 2007.

<sup>15</sup> For its text, see below.

<sup>16</sup> As regards article 246, see the mentioned Númena National Annual Report, page 15 par. 5 and quotes.

approach is similar to that of a general aggravating circumstance in the case of a racist offence, to the sense that the racist purpose shall be taken into account by the judge in the case of offences such as defamation, when handing down the sentence or aggravating the sanction.

14. Among other amendments to Portuguese legislation, we should mention changes introduced to the Code of Civil Procedure by Decree-Law No. 303/2007 of 24 August 2007, and to the Code of Criminal Procedure by Law No. 48/2007 of 29 August 2007. These changes include the possibility of an appeal for legal review/*revision* of a final sentence in order to implement a ruling by an international decision body. The relevant provisions are articles 771 (f) and 772 (2) (b) of the Code of Civil Procedure and article 449 (1) (g) of the Code of Criminal Procedure.

15. As regards the new Law on Asylum, a major change has occurred in the transition from the administrative to the judicial phase of proceedings for granting asylum, in that the judicial appeal against a decision of the Administration refusing an application for asylum now has suspensive effect. This change had been requested for years by national NGOs and by independent experts.<sup>17</sup> The relevant instrument is Law No. 27/2008 of 30 June 2008.

16. Other important measures in this context that may be regarded as good practices<sup>18</sup> are:

(a) The National Action Plan for the European Year of Equal Opportunities for All;<sup>19</sup>

(b) The Plan for Immigrant Integration;<sup>20</sup>

(c) The National Plan against Trafficking in Human Beings,<sup>21</sup> that is based on an vision that Integrates the human dimension of the problem, enforcing preventive measures and concrete responses regarding the support and integration of the victims of trafficking, especially victims of sexual exploitation and forced labour;

(d) The National Strategy for Social Protection and Social Inclusion 2008/2010, that entailed an approach that was aimed at mainstreaming, among other groups, the integration of the immigrant population and ethnic minorities;

(e) The new legal framework for entry, stay, exit and removal of foreigners from national territory;<sup>22</sup>

(f) The appointment of the High Commission for Immigration and Intercultural Dialogue (*Alto Comissariado para a Imigração e o Diálogo Intercultural* – ACIDI, I.P.) as coordinator of the European Year of Intercultural Dialogue;<sup>23</sup>

(g) The appointment of a National Rapporteur for monitoring trafficking in Human Beings;

(h) The establishment of an Observatory on Trafficking in Human Beings that is responsible for the gathering of data regarding this phenomenon;

<sup>17</sup> In order to ensure the right to an effective remedy in accordance with the relevant case-law of the European Court of Human Rights, in particular in the case *Gebremedhin v. France*.

<sup>18</sup> These are defined as good practices by the Númena Report Authors. See the quoted Númena “National Annual Report”, pages 17–19.

<sup>19</sup> Númena, “National Annual Report”, *cit.*, page 17.

<sup>20</sup> Númena, *cit.*, par. 4 page 17. See also article 2, point B of this report for more detailed information.

<sup>21</sup> Númena, *cit.*, par. 5, page. 18.

<sup>22</sup> Númena, *cit.*, par. 6, page 18.

<sup>23</sup> Númena, *cit.*, par. 8, page 19.

(i) Measures in the framework of the Major Options of the Plan for 2008, which include immigrants and ethnic minorities aiming at a better integration<sup>24</sup> of these minorities, and Law No. 45/2007 of 24<sup>th</sup> August 2007 on the right to appeal.<sup>25</sup>

17. The amendments introduced to the Portuguese Nationality Act by Organic Law No. 2/2006 of 17 April 2006 have contributed to the application of a more generous law to the 2<sup>nd</sup> or 3<sup>rd</sup> generation immigrants, by allowing these citizens to acquire Portuguese nationality under certain conditions, thus reducing the number of immigrant descendants and turning Portugal into a *Jus Soli* nationality country.

18. Trafficking in human beings is covered by Decree-Law No. 368/2007 of 5 November 2007. Victims of trafficking are usually irregular migrants who also enjoy specific rights. Victims of trafficking, once identified as such, are immediately entitled to a special temporary residence permit as long as they cooperate with the authorities in the detection of the criminal acts. The victim also has the right to free of charge legal aid, as well as to social and medical assistance. It should also be underlined that there is a special regime of granting residence to victims of traffic, even when they do not collaborate with the competent authorities, based on a casuistic evaluation of the personal situation of the victim. The decision is taken by the Minister of Internal Affairs, by his own initiative or by proposal of a competent organ of the criminal police or by the coordinator of the National Plan of Trafficking on Human Beings.

19. As regards education and health conditions for non-Portuguese citizens who remain on Portuguese territory without a legal status, no child may be refused the benefits of public schooling due to the irregular situation of his/her parents, according to Decree-Law No. 67/2004 of 25 March 2004. The registry of minors in irregular situation is confidential.

20. The General Direction for Health of the Ministry of Health has issued a Circular No. 12/DQS/DMD dated 07/05/09, which specifies the guidelines followed since 2001, whereby irregular immigrants who remain in Portugal for a period of time of more than 90 days can not be discriminated against in access to public health care, although, in general terms, they might have to bear its real costs. However, exceptions are allowed as, for instance, in cases where urgent and vital care is needed, or in the case of transmissible diseases that might endanger or threaten public health. *Regular immigrants have the same rights as national citizens in this area.*

21. In addition to the Law on the extinction of fascist organizations and the prohibition of racist organizations by article 46 (4) of the Constitution, a constant work is carried out to discourage racism, racial discrimination and racist organizations. This work also takes place in the field of Justice as regards court decisions, in particular those mentioned in the Portuguese reports to CERD.

22. As mentioned in previous reports to CERD, immigrant associations may become “assistants” (private prosecutors) in penal proceedings involving criminal liability for racist acts. Article 5 of Law 18/2004 grants these associations a special status, as they are able to act on behalf and support of the victims.

23. Although not only addressed to racism but also to other grave forms of discrimination, changes introduced in the wording of article 240 of the Criminal Code by Law No. 59/2007 of 4 September 2007 have widened the scope of discrimination offences

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<sup>24</sup> Númena, *cit.*, par. 9, page 19.

<sup>25</sup> Númena, *cit.*, par. 10, page 19.

to include, in particular, sexual discrimination understood as discrimination on grounds of gender or of sexual orientation.<sup>26</sup>

## 2. Specific information on legislative, judicial, administrative or other measures taken

24. In addition to the Law on extinction of fascist organizations and on prohibition of these and of racist organizations covered by article 46 (4) of the Constitution, already mentioned in previous reports, a constant work is carried out to discourage racism, racial discrimination and racist organizations. This work also takes place in the field of Justice, in which a decision of the Lisbon Criminal Court of First Instance, now final, convicted an important group of skinheads who had distributed racist tracts in the centre of Lisbon (Praça dos Restauradores).<sup>27</sup>

25. Among policy measures, some positive steps were taken, such as the creation of the National Immigrant Support Centres (CNAI)<sup>28</sup> and the Local Immigrant Support Centres, as well as the National Network for Information to Immigrants, in the framework of ACIDI (High Commissioner for Immigration and Intercultural Dialogue).<sup>29</sup> Labour, housing, health measures, education, social security and solidarity, culture and language learning courses (such as in the “Portugal Welcome” scheme – *Portugal Acolhe*), Justice, information society, sports, integration of immigrants’ descendants and family reunification are measures covered by the implemented policies. There are also measures that focus racism and discrimination, religious freedom, immigrant associations, the media, citizenship and political rights. Finally, there are measures to promote gender equality and the fight against trafficking in human beings.

26. ACIDI has played a major role in the implementation and management of those positive measures, but also in the integration of immigrants, with zero tolerance to any racially motivated acts. This government body, as a cross-cutting action service, reports to the Prime-Minister. Hence, the integration of immigrants is regarded in Portugal under a holistic approach connecting different ministerial departments, and not only as a labour market or security issue. Centred in a “Rule of Law with a human face”, the Portuguese State, through ACIDI, has set the following priorities for immigrant integration:

(a) Ensuring the effective exercise of equal rights and duties between national and foreign citizens and fighting all forms of ethnic or racial discrimination, or any other expressions of xenophobia;

(b) Promoting information systems and support to immigrants in order to contribute to their integration in Portugal – whether by paper (brochures), by phone (hotline for immigrants and telephone translation service), on Internet ([www.acidi.gov.pt](http://www.acidi.gov.pt)) or by personal contact (with socio-cultural mediators);

(c) Creating friendly interfaces and integrated solutions between Immigrants and the Public Administration, through the National and Local Immigrant Support Centres;

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<sup>26</sup> For the text, see below.

<sup>27</sup> This case has already been mentioned in the latest report to CERD. At the time, however, it had not been tried yet. This is now done, the decision being final since September 2005. See below.

<sup>28</sup> The CNAI — the Portuguese One-Stop-Shop experience — has proved to be an example of best practices for all Member States as regards the integration service provision to immigrants – further details at [www.oss.inti.acidi.gov.pt](http://www.oss.inti.acidi.gov.pt).

<sup>29</sup> The ACIDI succeeded to the ACIME. See the Portuguese reports to CERD of 1998, 1999 and 2003. Since February 2008, Mrs. Rosário Farmhouse is the High Commissioner for Integration and Intercultural Dialogue, succeeding to Mr. Rui Marques who, in turn, had succeeded to Mr. Vaz Pinto. The first High Commissioner was Mr. José Leitão.



(d) Deepening the knowledge of the Immigration realities, adhering unwaveringly to the motto “Getting to know more, so as to act better”, through research carried out by the Immigration Monitoring Centre (*Observatório da Imigração*) ([www.oi.acidi.gov.pt](http://www.oi.acidi.gov.pt));

(e) Promoting the teaching of Portuguese Language and Culture to immigrants;

(f) Raising public awareness on tolerance and diversity and galvanising the mass media into making a contribution towards integration and fighting the stigmatisation of immigrants and those from ethnic minorities (namely through the Journalism for Tolerance Prize).

27. As a result of this promotion of integration policies, Portugal has reached the second place in a ranking of 28 countries made by the British Council and the Migration Policy Group (MPG), the “Migrant Integration Policy Index” for 2007. In this research, the first classified was Sweden, followed by Portugal. The research of the MPG mentions that, as a recent country of immigration, Portugal has instituted a legal immigration structure incorporating favourable policies and good practices. Portugal should not need to go further as regards labour market access, family reunion and anti-discrimination measures, which would place the country in the 2<sup>nd</sup> place out of the 28 countries of the MIP Index (25 EU countries, plus Canada, Norway and Switzerland).<sup>30</sup>

28. Regarding the international recognition, Portugal was acknowledged by the United Nations under the Human Development Report 2009 as the highest ranked country in the world regarding the allocation of rights and provision of support services to immigrants. (Link: [http://hdr.undp.org/en/media/HDR\\_2009\\_PT\\_Complete.pdf](http://hdr.undp.org/en/media/HDR_2009_PT_Complete.pdf).)

**(a) National and Local Support Centres for Immigrant Integration**

29. As mentioned earlier, the National Immigrant Support Centres (CNAI), along with the Local Immigrant Support Centres, are quite positive policy measures.<sup>31</sup> Three National Centres currently located in Lisbon, Porto and Faro provide assistance to immigrants in their process of integration. These support centres, known as One-Stop-Shops, are based upon the general recognition that service dispersion is one of the reasons why immigrants lack information on their rights and duties, and on the relevant procedures. The Portuguese CNAI were the role model for the European Project “One-Stop Shop – A New Answer for Immigrant Integration” (JLS/2006/INTI/148), coordinated by ACIDI from September 2007 till February 2009.<sup>32</sup>

30. In 2004, confronted with the arrival of increasing numbers of non-Portuguese-speaking immigrants in the first years of this century,<sup>33</sup> the Portuguese Government created two One-Stop-Shops, with the official name of National Immigrant Support Centres

<sup>30</sup> The report is available, in Portuguese, in <http://www.integrationindex.eu/multiversions/2793/FileName/MIPEX%20-%20Portuguese-completed.pdf> and in English in <http://www.integrationindex.eu/multiversions/2712/FileName/MIPEX-2006-2007-final.pdf>.

<sup>31</sup> CNAI is presented as an example of good practices in the *Handbook on Integration for policy-makers and practitioners* of the Directorate-General of Justice, Freedom and Security – European Commission (p. 22). Available for download in: [http://ec.europa.eu/justice\\_home/doc\\_centre/immigration/integration/doc/handbook\\_en.pdf](http://ec.europa.eu/justice_home/doc_centre/immigration/integration/doc/handbook_en.pdf) CNAI is also presented as an example of good practices in the OECD publication *Jobs for Immigrants: Labour market integration in Belgium, France, The Netherlands and Portugal* (2008), pp. 285–286.

<sup>32</sup> For further information on this Project model, see <http://www.oss.inti.acidi.gov.pt/index.php?lang=en>.

<sup>33</sup> Detailed information on the establishment of the CNAIs in 2004 is available in Chapter 3 of the ACIDI Activities Report (English version) – available for download at: [http://www.acidi.gov.pt/docs/Publicacoes/RelatorioActividades\\_ING/activity\\_report\\_short.pdf](http://www.acidi.gov.pt/docs/Publicacoes/RelatorioActividades_ING/activity_report_short.pdf).

(CNAIs), in Lisbon and Porto, in order to promote the cooperation between public administration services in minimising inaccuracy and time-consuming *modus operandi* when implementing procedures and in order to increase immigrants' trust in public administration services, thus narrowing the gap between the two.

31. Through shared responsibility and partnership between various levels of the Portuguese government, the centres involve six branches of five Ministries and offices that provide specific support, notably with regard to legal advice, family reunification and labour market integration, among other issues.

32. The Centres respond to the afore-mentioned difficulties by providing different services related to immigration in one space with an identical working philosophy, and functioning in cooperation. The launching, consultation and discussion phase for the Centres took place during the second half of 2002, while in 2003 appropriate locations for the Centres were identified and the project entered its implementation phase, where the various governmental and non-governmental organisations were invited to take part in the project.

33. From March 2004 to December 2008, a total of over 1 688 114 cases were addressed. In 2008, the Lisbon and Porto CNAIs received 306 222 clients, representing an average of about 25 518 service-users/month. The main nationalities of the people who benefited from the services of CNAIs for the first time in 2008 were Brazilian (26.2%), Cape Verdean (17.7%), Guinean (Guinea-Bissau) (9.9%), Angolan (8.0%) and Ukrainian (4.5%). Recently, there has also been an increase in the number of Portuguese nationals using the service.

34. On the 3<sup>rd</sup> April 2009, the third Centre opened in Faro, in the "Citizen Store" of Faro, with another format – instead of the One-Stop-Shop model, Faro has an information service that, until the end of June 2009, had already assisted 2 038 customers.

35. Under Decree-Law No. 27/2005 of 4 February 2005, the CNAIs were integrated into the structure of ACIDI, I.P., which was then an inter-ministerial coordination service. In 2007, under Decree-Law No. 168/2007 of 3 May 2007, ACIDI became a public institute under indirect State administration and its powers regarding the support centres were further defined as follows: *"To operate Immigrant Support Centres, at national, regional and local level, that provide an integrated response by the various public services to their needs in terms of welcoming and integration, namely through partnerships with Government departments that have a role in the area, public administration services, local authorities, non-governmental organisations, immigrant associations or other entities with a relevant interest in the subject."*

36. In sum, this approach represents an essential tool in successfully managing migrant integration so that it may fully benefit immigrants, specifically in service provision to immigrants. The One-Stop-Shop is a contribution to ensuring that integration is a two-way process, where the hosting society actively engages in its correct adaptation. The One-Stop-Shop service is a policy that approaches integration from the perspective of the adaptation of the hosting society and the services that it provides, combined with a consultative and cooperative process working with immigrants, to further the integration of both immigrants and the hosting society.<sup>34</sup>

37. In 2006 the International Organization for Migration (IOM) undertook an independent evaluation of the outcomes of these support centres.<sup>35</sup> A survey was conducted

<sup>34</sup> For further details on the One-Stop-Shop approach visit the website [www.oss.inti.acidi.gov.pt](http://www.oss.inti.acidi.gov.pt).

<sup>35</sup> For further details on IOM's external evaluation of the CNAIs, see [http://www.oss.inti.acidi.gov.pt/index.php?option=com\\_content&view=article&id=122&Itemid=55&lang=en](http://www.oss.inti.acidi.gov.pt/index.php?option=com_content&view=article&id=122&Itemid=55&lang=en).

with both the users and staff of the centres. Several changes were implemented on the basis of that evaluation. As reported by IOM, the centres proved to be dynamic structures undergoing changes in order to adjust to new internal and external factors. The evaluation concluded that the National Immigrant Support Centre model “*is effectively an initiative and an experience that should be*” followed (IOM, 2007:81).

38. In addition to these National Support Centres, Portugal is also equipped with a Network of local centres for Immigrants Information, with the official name of CLAII (Local Immigrant Integration Support Centres). These Local Centres are decentralised spaces of information that provide local responses articulated with the needs of hosting communities and with the integration of the immigrant communities settled in different regions of Portugal.<sup>36</sup> Although initially the local centres (CLAII) were devoted to information, they now provide a more active assistance to immigrants, due to their qualified staff who promote the organisation of activities for a better integration of immigrants in Portugal.

39. The CLAII operate through offices animated by mediators equipped with multimedia units with Internet access – [www.acidi.gov.pt](http://www.acidi.gov.pt). They are equally equipped with the phone line *SOS Immigrant*, which allows the immigrant to address any doubts or to raise more complex questions. Information leaflets are also available in these centres in three languages — Portuguese, English and Russian — addressing key points of the most relevant issues that affect immigrants’ life in Portugal: immigration law, health guide for the immigrant, family reunification, programme of voluntary return and education, among others.

40. The CLAII are the result of partnerships between ACIDI and local councils, immigrant associations, NGOs, parishes and other non-profit organisations. Each one of these institutions is connected to the ACIDI by a Protocol in which the object of the agreement is described in detail – the reception rules and the working timetable are set according to the procedures established by ACIDI, I.P. They must also subscribe the Ethic Chart of the CLAII. The mediators of the CLAII, identified by each institution, only start the service provision after a period of training and after an evaluation of their competences and qualifications promoted by ACIDI, I.P.

41. The signature of the first Protocols took place on 19 February 2003 and the first CLAII began its work by the end of March 2003. After more than six years of work, the CLAII network now comprises 86 Local Centres located all over the country, in areas where the immigrant communities are most representative.

**(b) Immigrants’ participation in policies that directly affect them**

42. Aiming at a better sense of co-responsibility and of belonging, at a more active exercise of rights and duties, Portugal has encouraged the participation of immigrant communities in the implementation of integration policies by:

(a) The *incorporation of cultural mediators* in the public administration service provision – as cultural mediators, of various origins and with competences in different fields, have a good cultural and linguistic proximity to service-users, they play a central role in service provision. In other words, cultural mediators contribute for immigrant integration through a better intercultural dialogue and in view of a better social cohesion. In Portugal, cultural mediators play a central role in promoting an interaction between State services and the immigrant population, and they are an integral part of the procedures of

<sup>36</sup> The main partners of the ACIDI in the creation of the CLAII are local powers, in particular municipalities.

both the Foreigners and Borders Service (SEF) and ACIDI with the National and Local Support Centres for Immigrant Integration. Mediators in Portugal are not directly employed by the Portuguese Government institutions, but rather by immigrant associations, which in turn receive grants from those institutions. ACIDI has also recently adopted a pilot-project for cultural mediation in provision of public services, aiming at raising awareness in several public institutions (namely health care institutions and municipalities) on the fundamental role that cultural mediators may have in filling the gap between the State and immigrants;<sup>37</sup>

(b) The *Technical Support Office for Immigrant Associations* (GATAI) – through the action of this office, which works closely with immigrant communities, the creation and development of immigrant associations have been promoted. Around 100 associations are officially recognised by ACIDI, I.P. at local, regional or national level. They receive technical support, in particular training for their leaders, as well as financial support to their activities, which, in 2008, amounted to around 700,000 Euros;

(c) The *Consultative Council for Immigration Affairs* (COCAI), created in 1998 under the auspices of ACIDI, I.P., aims at ensuring consultation and dialogue with organisations that represent immigrants and ethnic minorities. The council also has a say in the recognition of, and financial support to, immigrant associations. The Council's responsibilities include making statements regarding immigrant rights, taking part in policy-making for the social integration of immigrants, improving living conditions and participating in the defence of immigrants' rights. The COCAI plays a central role in the legal scheme governing immigrant associations, as it is invited to give its opinion on the recognition of, and the provision of financial support to, immigrant associations.

43. Under the ACIDI Organic Law, Decree-Law No. 167/2007 of 3<sup>rd</sup> May 2007, immigrant associations are recognized a fundamental role in the reception and integration of immigrants. Accordingly, they were involved from the beginning in the information and support process to immigrant citizens. The involvement of immigrant associations in the provision of services in the CNAI and in the CLAII has been ensured by socio-cultural mediators. By working in partnership with public administration bodies, mediators and immigrant associations play a key role in strengthening the proximity between immigrants and the State and/or Public Administration, as well as in increasing the immigrants' trust in the relevant services.

44. Law No. 105/2001 of 31 August 2001 sets the status of the Socio-Cultural Mediator in Portugal. According to its article 1, the Socio-Cultural Mediator has the mission of cooperating in the integration of immigrants and ethnic minorities, aiming at a better intercultural dialogue and social cohesion. Socio-Cultural Mediators perform their duties, namely, in schools, social solidarity institutions, health institutions, the Foreigners and Borders Service (SEF), the General Direction for Social Reintegration, local councils and public agencies. According to article 2 of Law No. 105/2001, the Socio-Cultural Mediator promotes socio-cultural dialogue by stimulating the respect and better knowledge of cultural diversity and social dialogue.

45. The Socio-Cultural Mediator contributes to the prevention and resolution of cultural conflicts and to the definition of social intervention strategies, actively cooperates with all stakeholders in the social and education intervention processes, facilitates communication among professionals and users of different cultural origins, assists users in their relationship with professionals and public and private services, promotes the inclusion of citizens of different social and cultural origins under equal conditions, respects the confidential nature of information related to families and populations covered by his/her action field.

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<sup>37</sup> Further details at <http://www.rcc.gov.pt/pt-PT/Noticias/ContentDetail.aspx?id=1460>.

46. As regards the legal status of Mediators, under article 3 of Law No.105/2001, the exercise of the function of Socio-Cultural Mediator may be ensured through the celebration of Protocols, involving state and local authorities and associations, cooperatives or companies that integrate persons belonging to ethnic or immigrant groups. The state and local organizations ensure the necessary resources for funding the Protocols, in order to guarantee the continuity and stability in the action of Socio-Cultural Mediators, with the aim of decreasing the distance between the socially excluded populations and the institutions that work with them.

47. Under article 4 of Law No. 105/2001, Socio-Cultural Mediators follow training courses that take into account a matrix with common contents, in particular, promoting intercultural dialogue among all citizens. The specific training modules take account of the specific features of each community, in order to ensure an intrinsic relationship between training, certification and the labour market.

48. In the National Support Centres of Lisbon and Porto, approximately 105 cultural mediators were provided by their respective associations, and around 104 are active at the CLAI. In the extension of the National Support Centres in Faro, 12 cultural mediators and one coordinator are also provided by immigrant associations, in this particular case by 7 associations.

**(c) Information tools for the defence of rights and the fulfilment of duties by immigrants in Portugal**

49. Portugal, through the ACIDI, has promoted several other important measures in order to inform immigrants on their rights and duties in Portugal. This involves the creation and consolidation of an information network that is simple, accessible and useful. Brochures are also distributed explaining the services provided by the CNAIs, together with other brochures on rights and on legislation, translated into several languages.

50. Another important information tool is ACIDI's *SOS Immigrant Phoneline*, created on 13 March 2003. It provides information in a number of common migrant languages. Its aim is to provide immigrants and their associations, as well as a wider range of organizations, with general information on immigration issues, to give advice and to identify emergency situations, to contribute to effective equal rights and duties of migrants in access to work, housing, health and education, and to respond and provide advice on matters related to immigrant discrimination.

51. *Outreach teams* comprising cultural mediators from the CNAI were created by ACIDI in January 2006. The aim of these teams is to provide specialised services in different areas related to the lives of immigrants in Portugal, to visit local neighbourhoods and institutions with the aim of raising awareness about the existence of, and the services provided by, the CNAI. The outreach teams also seek to bridge information gaps among immigrant communities, not only as regards their rights and duties in Portuguese society, but also about the integration services available.

52. In cases where the language is a barrier to an effective communication, the *Telephone Interpreter Service (STT)* is available for around 60 languages, free of charge. It allows migrants that don't speak Portuguese to be understood by the service's technicians that receive them, thus tackling all situations where communication barriers may lead to misconceptions and, eventually, to involuntary discrimination situations.

**(d) Raising public awareness for welcoming and integrating immigrants**

53. In order to help Portuguese public schools deal with the increasing number of foreign students and with the greater social, cultural and ethnic diversity, the *Entreculturas Board* was created in 1991 within the Ministry of Education. A large range of activities

were developed to sensitize schools and other educational stakeholders regarding the issue of intercultural education, as a means to facilitate the integration of immigrants' children and ethnic minorities in schools and to ensure better and more equal opportunities.

54. From January 2004 onwards, the *Entreculturas* team was displaced to the ACIDI, thus entering a new stage where its scope of action and responsibilities were broadened beyond the education system, more focused now towards the Portuguese society as a hosting community. This was a sign of the recognition that the problems and challenges addressed go far beyond the answers that may be given within the education system. Under this new approach, a team of trainers was created with the aim of providing support to awareness-raising and mobilization actions at local level, in order to promote welcoming and integration activities. Around 30 trainers make up the Team, all of them qualified with specific training in various areas.

55. Additionally, Portugal, through the ACIDI, has adopted relevant measures in order to raise public awareness on how to welcome and integrate different groups and to promote interculturalism, in particular:

(a) Raising awareness on the realities of immigration, through research carried out by the Immigration Observatory, in such a way as to support the design, carrying out and evaluation of public policies in this area with the philosophy "getting to know more so as to act better" (further details at [www.oi.acidi.gov.pt](http://www.oi.acidi.gov.pt));

(b) Sensitizing public opinion on tolerance and diversity as fundamental civilisation values within Portuguese society, through actions in the social, cultural, artistic and sportive areas;

(c) Sensitizing the media to join the fight against the stigmatisation of immigrants and ethnic minorities, namely through the Journalism for Tolerance prize that is awarded every year to journalists that provided a positive image of immigrants and/or intercultural dialogue;

(d) Raising public awareness on how to welcome and integrate immigrants and to promote interculturalism, through a weekly TV program called *Nós* ("We") and a weekly radio programme.

56. The TV program organised by *Cais* and by ACIDI, entitled *Nós* and broadcast by the cultural channel of the public television, RTP2, began on 11 January 2004. This program is a weekly magazine of one hour (with 20-minute slots each day) that is dynamic, cheerful and engaged in the integration and welcome of the communities that have chosen Portugal as their country of destination. The program highlights the social and cultural richness brought by different communities to Portugal, through their way of life, gastronomy, sports, culture, etc... The purpose is to create a bridge of information across civil society, by the presentation of interviews and debates on current issues, information on the rights and duties of citizens of immigrant origin, as well as establishing links between immigrant associations and services of the civil society and the State. The program is broadcast every Sunday at 10:00 AM on RTP2 (Channel 2 of public television).<sup>38</sup>

57. Besides *Nós*, ACIDI produces a radio programme named "People like us" (*Gente Como Nós*) in collaboration with the radio station TSF. This weekly programme, based upon the stories presented in *Nós*, also provides original and up-to-date information on immigration issues. It's permanently available in the radio station website (available in [http://tsf.sapo.pt/Programas/Programa.aspx?content\\_id=918073](http://tsf.sapo.pt/Programas/Programa.aspx?content_id=918073)).

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<sup>38</sup> Other good practices may be accessed in the site of the ACIDI: [www.acidi.gov.pt](http://www.acidi.gov.pt).



**(e) The integration of Roma communities**

58. Acknowledging the need to give a more systematic and effective support to Roma communities in Portugal and having made an objective diagnosis of their situation in the most needed areas — education, housing, work and health — ACIDI created in January 2007 the *Roma communities support office* (GACI).<sup>39</sup> This Office structures its mission around three major lines of action: the reinforcement of intercultural dialogue, the promotion of education for citizenship, the promotion of the Roma culture and identity. Recognizing, however, that the success of this mission depends not only on the resolution of problems and the fulfilment of needs, but also on a necessary proximity with these groups, the GACI invited some members of the Roma community having an associative and mediation experience to integrate GACI in the quality of consultants.

59. In the framework of its activities, the ACIDI launched in June 2007 the site “Ciganos!” (translated as “Follow us”/“Gypsies”) available on <http://www.ciga-nos.pt>. This website aims at the dissemination and exchange of information by the creation of networks, by the dissemination of field projects, the promotion of a positive image of the Roma community and a better knowledge of the history and culture of these minorities. To this extent, ACIDI reinforces the interaction process between different participants in the integration of Roma communities, and strives to find the best solutions to implement and disseminate them.<sup>40</sup>

60. On 8<sup>th</sup> April 2009, in the framework of the celebrations of the International Roma Day, ACIDI announced a pilot-project, implemented through GACI, for Municipal Mediators to work with the Roma communities. This initiative aims at improving access by Roma communities to local services and equipments, promoting communication between Gypsies, municipalities and local communities, and preventing and managing possible conflicts, as well as building intercultural bridges. The project was proposed for financing by the EU social funds for a period of 12 months, and is intended to work with mediators in 15 different Portuguese municipalities.

**(f) Special measures for immigrant descendents and Roma youngsters**

61. Special and practical measures adopted in the social, economic and cultural fields comprise the Program *Escolhas* (“Choices Programme”), a mainstream governmental programme adopted in 2001 and managed and coordinated by the ACIDI with the aim of promoting the social integration of children and youngsters from disadvantaged social backgrounds – many of which are immigrant descendants and members of Roma communities, but also Portuguese citizens. The general purpose of this programme is to promote equal opportunities and the social inclusion of the programme’s beneficiaries. The target group of this programme includes children and youngsters between 6 and 24 years old that are in situations of early school leaving, without the level of basic education (9 years of schooling) and/or in risk situations. The Choices Programme is now at its third stage (2007–2009) and supports 120 local projects with a total budget of 25 million Euros. The main areas of the programme are educational inclusion and non-formal education, vocational training and employability, civic and community participation and digital inclusion. The Choices Programme aims at increasing school success, as well as social and professional skills, reducing competitive disadvantages and making self-esteem grow. These projects are managed by local partnerships that involve 780 local partners. The projects involve schools (145 schools participate in the 120 projects), local governments

<sup>39</sup> *Gabinete de Apoio às Comunidades Ciganas – GACI.*

<sup>40</sup> Good practices in the framework of the GACI activities and the *Ciga-nos* Project may be accessed in the website of the ACIDI: [www.acidi.gov.pt](http://www.acidi.gov.pt).

(158 municipalities), Non-Profit Organizations (IPSS) and the Commissions for the Protection of Children and Youngsters.<sup>41</sup> On the basis of a prevision of 39 732 participants in the project for the three-year period (2007–2009), the program included already 80 460 people.

62. The work done by the Choices Programme was internationally acknowledged with international distinctions: in 2003, it received the European Union Award on Criminality Prevention and, in 2007, the programme was referred as a good practice in the “Handbook for Integration”, published by the European Commission. It was also considered a good practice in the first “International Report on Criminality Prevention and Community Safety” produced by the Centre for the Prevention of Crime (ICPC), with headquarters in Canada, and shown as a project that should inspire a benchmarking policy.

63. Due to the good results obtained at its third stage (2007/2009), the Choices Program will enter its fourth implementation period. The 4<sup>th</sup> Generation of the Choices Program, created by Resolution of the Council of Ministers No. 63/2009 of 23<sup>rd</sup> July 2009, will receive an increasing budget in order to support more projects implemented upon new priorities such as: the promotion of entrepreneurship and capacity-building.

**(g) Action Plan for the Integration of Immigrants**

64. Although Portugal has been traditionally an emigration country, it has also become, since the 1990s, a country of immigration. Immigrants are nowadays about 7% of the active population and 4.5% of the national population. The First Action Plan was conceived in order to welcome and integrate those foreigners who chose Portugal as a country to live in.

65. Hence, the intercultural model advocated by the Portuguese integration policy became operational in 2007 with the adoption and implementation of the *National Plan for the Integration of Immigrants*.<sup>42</sup> Portugal developed for the first time an action plan for immigrant integration, based on a holistic approach. This plan, involving 13 different Ministries, defined 122 measures organised into thematic sections. These are: (1) welcoming, (2) work, employment and professional training, (3) housing, (4) health, (5) education, (6) solidarity and social security, (7) culture and language, (8) justice, (9) the information society, (10) sport, (11) descendents of immigrants, (12) the right to live as a family / family reunification, (13) racism and discrimination – with 6 specific measures (from measure 86 to 91 included), (14) religious freedom, (15) immigrant associations, (16) the media, (17) relations with countries of origin, (18) access to citizenship and political rights, (19) gender equality and (2) trafficking in human beings. The plan was to be implemented up to the end of 2009.

66. Indicators and benchmarks were provided for each measure, with targets that should be met by the end of 2009. The plan was accompanied by a network of Focal Points, appointed by each Ministry involved which, under the co-ordination of ACIDI, I.P., would submit annual reports on the implementation of measures to the Consultative Council for Immigration Affairs (COCAI).<sup>43</sup>

67. The Plan was in its second year of implementation and until the first half of 2009 presented an execution of 81%, with 238 objectives from the total amount of 295, fulfilled or in fulfilment.

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<sup>41</sup> Comissões de protecção de crianças e jovens.

<sup>42</sup> The Plan is available in English at [http://www.acidi.gov.pt/docs/PII/PII\\_Ing.pdf](http://www.acidi.gov.pt/docs/PII/PII_Ing.pdf).

<sup>43</sup> See also article 2, point C of this report.



**(h) Measures for Victims of Ethnic or Racial Discrimination**

68. In a legal, judicial framework,<sup>44</sup> reference should be made to the previous reports submitted by Portugal<sup>45</sup> and to the setting-up in May 2005 of the UVIDRE – the Support Unit for Immigrant Victims of Ethnic or Racial Discrimination. This unit was established under a cooperation agreement with ACIDI — which provides an annual financial support to its activities —, and APAV, the Portuguese Association of Support to Victims of Violence, where anyone can file complaints on matters related to racism and xenophobia.<sup>46</sup> The unit gives specialized assistance to immigrant victims of racism and to all victims of racial or ethnic discrimination, offering confidential, free consultations, face-to-face or by telephone with a legal expert and/or psychologist. Information leaflets have been produced in Portuguese, English and Russian, and information is also available on-line, at the ACIDI and APAV websites.

69. As regards recently tried cases, reference should be made to the case of the racist pamphlets at Praça dos Restauradores in Lisbon, definitively settled in September 2005, referred to in the previous report<sup>47</sup> (the penalties were, in particular, of 1 and 2 years).

70. Secondly, there was the case of a man of African descent whose murder was contracted by an entrepreneur for whom the victim had executed construction work, in which the entrepreneur was also convicted.<sup>48</sup>

71. Finally, we had the Gisberta case, in which a helpless Brazilian transsexual woman having AIDS was murdered by youngsters in Porto.<sup>49</sup>

**3. Information on whether a national human rights institution created in accordance with the Paris Principles (UNGA resolution 48/134 of 20<sup>th</sup> December 1993) has been mandated with combating racial discrimination**

72. In the case of measures to give effect to the commitment of not allowing the perpetration of racially motivated acts, a good example is the ACIDI institution (High Commissioner for Integration and Intercultural Dialogue).<sup>50</sup>

73. ACIDI's mission is to take part in the conception, implementation and evaluation of cross-cutting and sectoral public policies relevant for the immigrant and ethnic minorities' integration, as well as to promote dialogue between different cultures, ethnic groups and religions.

74. Under Decree-Law No. 167/2007 of 3rd May 2007, the ACIDI is competent to:

<sup>44</sup> Interesting recent data on criminal justice are provided in the Númena Report, pp. 21 et seq. at B.4.

<sup>45</sup> The complaint mechanism is also well described in the quoted Númena report, on p. 20 par. 3.

<sup>46</sup> See the quoted Númena Report, p. 20 par. 4.

<sup>47</sup> There were convictions for facts that go well beyond the distribution of pamphlets.

<sup>48</sup> It does not clearly appear that the crime was a racially motivated crime but the fact is that the victim was a Brazilian of African descent.

<sup>49</sup> It does not also clearly appear that the crime was racially motivated. The sentence was light, due to the very young age of the person who committed the crime along with other children. The discrimination question, due to the circumstances involving gender and perhaps sexual orientation, seems to clearly arise.

<sup>50</sup> The ACIDI was preceded by the ACIME. See the Portuguese reports to CERD of 1998, 1999 and 2003. Since February 2008, Mrs. Rosário Farmhouse is the High Commissioner for Integration and Intercultural Dialogue, replacing Mr. Rui Marques who, in turn, had succeeded to Mr. Vaz Pinto. The first High Commissioner was Mr. José Leitão.

- (a) Promote the welcome and integration of immigrant and ethnic minorities, through the participation in the conception, development and coordination of cross-cutting and sectorial integrated public policies;
- (b) Encourage the civic and cultural participation of immigrant and ethnic minorities in Portuguese institutions, as well as the contribution of their associations to the full citizenship exercise;
- (c) Ensure the access of immigrant and ethnic minorities to relevant information, in particular on citizenship rights and duties;
- (d) Combat all forms of discrimination based on race, colour, nationality, ethnic origin or religion, through positive actions of sensitization, education and training, as well as through the enforcement of administrative penalties foreseen by Law;
- (e) Promote a multicultural approach through intercultural and inter-religious dialogue, based upon the respect of the Constitution, of laws enforced and of valuing cultural diversity through mutual respect;
- (f) Establish centres for support to immigrants at national, regional and local level, that provide an integrated answer by public services to their welcoming and integration needs, in particular through the establishment of partnerships between governmental institutions, services from the Public Administration, municipalities, non-governmental organizations, immigrant associations and other entities with relevant interest in this area;
- (g) Contribute to the improvement of living and working conditions of immigrants living in Portugal, to their integration with dignity, in equal opportunities as Portuguese nationals;
- (h) Promote the immigrants' knowledge of the Portuguese language and culture, in view of a better integration in the Portuguese society;
- (i) Encourage initiatives promoted by the civil society aimed at the welcoming and integration of immigrant and ethnic minorities in Portugal;
- (j) Promote the awareness of civil society and research on themes related to immigration, ethnic minorities, intercultural dialogue and inter-religious dialogue;
- (k) Foster the social inclusion of children and youngsters coming from more vulnerable socio-economic backgrounds, especially immigrant and ethnic minorities' descendants, aiming at equal opportunities and better social cohesion, ensured by the Choices Programme;
- (l) Promote dialogue with religions through the knowledge of different cultures and religions and by building mutual respect and affection for diversity, not only in Portugal but also in international relations.

75. The High Commissioner also comprises a *Consultative Council for Immigration Affairs* (COCAI),<sup>51</sup> with the aim of ensuring dialogue between all involved actors. The Consultative Council provides advice on bills related to immigrants' rights, takes part in the definition of social integration policies for the elimination of discrimination and the promotion of equality, participates in the adoption of measures and actions aimed at improving the living conditions of immigrants and, after their execution, takes part in the safeguard of immigrants' rights in the respect for their identity and culture, by submitting proposals for their promotion and exercising other powers provided for by Law.

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<sup>51</sup> Created by Decree-Law No. 251/2002 of 22nd November 2002.

76. The Consultative Council comprehends the High Commissioner who presides, one representative of each of the immigrant communities from Portuguese-speaking countries, one representative of each of the three largest immigrant communities not belonging to Portuguese-speaking countries, besides one representative of other immigrant associations. There is also a member representing social solidarity private institutions, two members of institutions working with immigrants appointed by the High Commissioner, two members of employers' associations and two members of Trade Unions having a seat at the Economic and Social Council; two citizens recognised for their independence and merits, nominated by the High Commissioner, a representative of the member of Government dealing with immigration and with affairs related to Portuguese communities; a representative of the Government for internal affairs, a representative of the Government for economic affairs, a representative of the Government for labour and social security, a representative of the Government for education, a representative of the Regional Government of Azores, a representative of the Regional Government of Madeira and a representative of the Portuguese Municipalities Association.

77. The COCAI meets regularly every three months and holds extraordinary meetings when convened by its President, or at the request of at least one third of its members, in which case they must indicate the matters that will be discussed in the meeting.

78. Finally, the *Commission for Equality and against Racial Discrimination* (CICDR) also works with ACIDI, examining complaints for administrative infringements in the framework of Laws nos. 134/99 and 18/2004.<sup>52</sup>

79. This Commission has specific powers to gather information related to acts of discrimination and to enforce the corresponding sanctions, to recommend the adoption of legislative, regulatory and administrative measures deemed necessary to prevent discrimination based on race, colour, nationality or ethnic origin, to promote studies and research work related to the problem of racial discrimination, to disseminate, by all means available, cases of effective violation of the Law, to prepare and publish reports on the situation of equality and of racial discrimination in Portugal.

80. The CICDR comprises the High Commissioner, who presides it, two representatives elected by Parliament, two representatives of the Government to be chosen by the Government Departments responsible for employment, solidarity and social security and education; two representatives of immigrant associations, two representatives of anti-racist associations, two representatives of Trade Unions, two representatives of employers' associations, two representatives of human rights' organizations and three personalities to be designated by other members.

81. The Commission for Equality and against Racial Discrimination's website ([www.cicdr.pt](http://www.cicdr.pt)) has a special tool called "Racism on Internet", where the users have the link to a national project called "Safe Internet", co-financed by the European Union under the project "Safer Internet Plus", in which citizens may file a complaint against a internet blog or site that has racist issues. This complaint leads to immediate action in the cases where the site is located in Portugal.

82. Decree-Law No. 167/2007 of 3<sup>rd</sup> May 2007 provides for the integration in ACIME of the Choices Programme, the Structure of Mission for Dialogue with Religions, and the *Entreculturas* Secretariat.<sup>53</sup> All these institutions and programmes are centred in the

<sup>52</sup> As regards the CICDR, see also article 2, point A and article 5 point A of this report.

<sup>53</sup> The competences and powers of the Choices Programme, the Secretariat *Entreculturas* and the Structure of Mission for Inter-religious Dialogue were covered by the Council of Ministers Resolutions No. 80/2006 of 26 June 2006 and No. 4/2005 of 6 January 2006, as well as by the

protection of human rights and the safeguard of equality and non-discrimination. Through this integration approach, the Government has centralised in just one governmental agency the various competences of different bodies, by centring all necessary, specialized human resources in just one entity.

83. This description of the functioning and work of ACIDI, as well as information provided in item B, show how the perpetration of discriminatory acts is deterred and how discriminatory practices are avoided. They also mean that there is an active engagement in the improvement of living conditions of persons belonging to minorities or arising from immigration.

**4. Information on groups and individuals benefiting from special and concrete measures taken in the social, economic, cultural and other fields**

84. We draw attention here to items B and C of this document, including the responses provided by ACIDI: the National and Local Centres for Immigrants' Support, the Helpline *SOS Imigrante*, the Telephonic Interpretation Service, the *Nós* and *Gente Como Nós* Programmes, the good practices related to Gypsies through GACI, the Choices Programme, the financial support given to immigrant associations and, last but not least, the Plan for Integration of Immigrants.

### **Article 3**

**Information on the legislative, judicial, administrative or other measures which give effect to the provisions of article 3 of the Convention**

**(a) Measures to prevent, prohibit and eradicate all practices of racial segregation in territories under the jurisdiction of the reporting State**

85. Portugal does not have territories under its jurisdiction that do not belong to the national State. No discrimination is admitted in the territory of the State. Finally, in its international policy, Portugal condemns every discriminatory action or omission by any State regarding its citizens.

**(b) Measures to ensure proper monitoring of all trends that can give rise to racial segregation and ghettoization**

**(c) Measures to prevent and avoid as much as possible the segregation of groups and individuals protected under the Convention including the Roma/Gypsies, descent-based communities and non-citizens, in particular in the areas of education and housing**

86. Besides the relevant information provided elsewhere in this report, an exemplary case may be quoted here.<sup>54</sup>

87. *SOS Racismo* filed a complaint to the CICDR (Commission for Equality and against Racial Discrimination) and the association *Observatório da China* (China Monitoring Centre) expressed public condemnation of "discriminatory statements" made by a Lisbon leader. Notwithstanding, the Head of the *Associação de Comerciantes e Industriais Luso-Chineses* (Association of Luso-Chinese Merchants and Industrialists) did not consider the

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Normative Decree (*Despacho Normativo*) No. 5/2001 of 1<sup>st</sup> February 2001.

<sup>54</sup> See Númena Report, quoted, C.1.2.3. "Exemplary cases", page 31, par. 27 and 28.

allegations discriminatory.<sup>55</sup> The complaint was based upon allegations made by a candidate to the leadership of the Commission for the Plan for Revitalization of the neighbourhood *Baixa-Chiado* who, in September 2007, had said that Chinese shops were engaged in unlawful trade practices that menaced other small local stores and undermined the “identity of the neighbourhood”. The idea of creating a Chinatown located in another neighbourhood in Lisbon was suggested as having triggered widespread reactions against it.

## Article 4

### 1. Information on the legislative, judicial, administrative or other measures which give effect to the provisions of article 4 of the Convention

88. Although not only addressed to racially motivated acts but also to other serious forms of discrimination, amendments in the wording of article 240 of the Criminal Code introduced by Law No. 59/2007 of 4 September 2007 enlarge the scope of the offence of discrimination in order to encompass conducts of sexual discrimination, comprising the offence of gender discrimination, as well as discrimination based on *sexual orientation*. This article now reads as follows:<sup>56</sup>

Article 240

Racial, religious or **sexual discrimination**

“1. *Whoever*

(a) *Founds or sets up an organisation, or develops activities of organised propaganda inciting or encouraging discrimination, hate or violence against a person or a group of persons on the grounds of their race, **colour, ethnic or national origin, religion, sex or sexual orientation**; or*

(b) *Takes part in the organisation or in the activities mentioned in subparagraph a), or gives his support thereto, in particular by financing them, shall be punished by a prison term of 1 to 8 years.*

2. *Whoever, at a public meeting, or by means of a text for distribution or by any other form of media communication **or computer system intended for disclosure**:*

(a) *Fosters acts of violence against a person or a group of persons on the grounds of their race, colour, ethnic or national origin, religion, **sex or sexual orientation**; or*

(b) *Defames or insults a person or group of persons on the grounds of race, colour, ethnic or national origin, religion, **sex or sexual orientation**, in particular through denial of war crimes or of crimes against peace and humanity; or*

(c) *Threatens a person or a group of persons on the grounds of their race, colour, ethnic or national origin, religion, sex or sexual orientation, with the intention of inciting or encouraging racial, religious **or sexual** discrimination, shall be punished by a prison term of six months to five years.”*

<sup>55</sup> See Númena Report, quoted, pars. 28 and 29, pages 31 and 32.

<sup>56</sup> The amendments are in bold.

89. Article 246 of the Criminal Code now provides that any person convicted for any of the offences of article 240 may be temporarily deprived of his/her active and/or passive electoral capacity.<sup>57</sup>

90. The whole legal system applying to discrimination derives from the provisions of article 2, subparagraph a) of the Convention, as referred above.

91. As regards the prohibition of racist organisations, Portugal refers to its previous reports and to the text of article 240 of the Criminal Code, as just transcribed.

92. Portuguese Constitution forbids public authorities or institutions, be they national or local, to promote or incite racially motivated hatred, and the same is laid down by the Ethical Charter of the Public Administration and by article 5 of the Code of Administrative Procedure. A complaint before the Ombudsman and judicial lawsuits are possible remedies for these kinds of violations.<sup>58</sup>

## **2. Information on whether racial motives are considered an aggravating circumstance under domestic penal legislation**

93. Racial motives are considered an aggravating circumstance in crimes of homicide (article 132, subparagraph f) of the Portuguese Criminal Code) and offences to physical integrity (132 (2) of the Portuguese Criminal Code). Another question is to know whether there is in Portugal a general aggravating circumstance for racially motivated crimes. ACIDI has not yet produced a text on this subject addressed to Parliament or to Government. However, it is considering the possibility of introducing a general aggravating circumstance for racist crimes, which would operate for each penal type. In this sense, CICDR, following the recommendations of the Council of Europe's ECRI, has already proposed to the Government the provision in the Criminal Code of a racial motivation behind the perpetration of any type of offence, in the sense that it becomes an aggravating circumstance of the offence. Moreover, racial motivation can also be taken into account when determining the measure of the penalty, as the court must consider all circumstances that, though not elements of the crime, may be favourable or unfavourable to the offender. The feelings revealed through the commission of the offence and the offender's motivations are some of those circumstances. This general mechanism of determination of the penalty is set forth in article 71 of the Criminal Code.<sup>59</sup>

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<sup>57</sup> See the Númena report, quoted, page 15, par. 5.

<sup>58</sup> In each case, in the past, in which that could have happened, legality won as is the case of the behaviour of the Mayor of Vila Verde mentioned in the text of the report then submitted by Portugal to CERD. Lately, and all cases of this kind have been mentioned in the reports to CERD, there has not been any case of this kind.

<sup>59</sup> This observation also arises from the ACIDI. Article 71 of the Criminal Code is related to the determination of the penalty measure. This determination is made, inside legally defined limits, on the basis of the offender's guilt and the prevention needs. Under article 71 (2) of the Criminal Code, when determining the extent of the penalty, the Court takes account of every circumstance that, although not part of the crime, may be favourable or unfavourable to the offender, in particular the unlawfulness of the fact, its mode of execution and the gravity of its consequences, as well as the intensity of the violation by the offender of the duties imposed on him; the intensity of *dolus* or negligence, the sentiments expressed while committing the crime and the aims or the motivation which determined it; the personal conditions of the offender and his economic situation, the behaviour previous to the fact and after it, in particular when aimed at redressing the consequences of the crime, the lack of preparation to maintain a lawful behaviour as manifested in the fact, when this absence shall be censured by the application of a penalty. The Court decision must clearly mention the reasons for the measure of the penalty.

94. As referred, article 71 of the Criminal Code is related to the determination of the measure of the penalty. This determination is made, within legally defined limits, bearing in mind the offender's guilt and the needs for prevention. According to par. 2 of article 71 of the Criminal Code, when determining the measure of the penalty, the Court takes into account every circumstance that, although not part of the offence, may be favourable or unfavourable to the offender, in particular the feelings expressed when committing the offence and the **aims or the motivation that determined it**. The judicial decision must clearly mention the reasons for the extent of the penalty imposed. That is similar to a general aggravating circumstance in the case of a racist crime, in the sense that the racist aim shall be taken into account by the judge in crimes such as defamation, when handing down a decision or aggravating the sanction.

### 3. Legislation giving execution to article 4

95. The new wording of article 240 of the Criminal Code has already been mentioned. Besides this article, and although this has been referred to in previous reports, Law No. 20/96 of 6 July 1996 allows NGOs to intervene as *assistentes* (private prosecutors) in penal proceedings, in cases of xenophobic or racist offences, thus instituting an *action popularis* on behalf of the victims.

### 4. Law enforcement; judicial decisions

96. We may quote here the case of racist leaflets distributed at *Praça dos Restauradores* in Lisbon, where the court decision became final in September 2005 and in which the offenders were sentenced for racist crimes under article 240 of the Criminal Code (it was the second decision of this kind in Portugal).<sup>60</sup>

97. There was also the case of an African descent independent worker who was murdered for sordid reasons in Fundão, in which the only connecting element to racist crimes was the worker's skin colour. The court did not retain the racist type of crime.<sup>61</sup>

98. Finally, the Gisberta case was not specifically a case of racism, but rather connected to the situation of vulnerable groups, where a female transsexual of Brazilian origin was murdered or led to death by young offenders who abandoned her in a watered hole after ill-treating her, the abandonment in such a place having led to her death.<sup>62</sup>

99. Except for the first one, the cases mentioned above are not connected to organised racist crimes.

100. A demonstration took place in Lisbon on 18 June 2005 on the basis of allegations of insecurity and requiring more security for citizens. The demonstration was organized by the *Frente Nacional* ("National Front") and led the *Governador Civil de Lisboa* to ask the advice of the Prosecutor General's Office on how police forces should proceed in such situations, as they might happen again in the future. Indeed, racial discrimination offences in the meaning of article 240 of the Criminal Code might be committed and it would be necessary to prevent or repress them. The Advisory Council of the Prosecutor General's

<sup>60</sup> The decision was taken in case No. 322/00.0P5 LSB (*3ª Vara Criminal de Lisboa, 1ª Secção*) and made public on 6 July 2005. It became final on 26 September 2005.

<sup>61</sup> The case was tried by the Criminal Court of Fundão (a city in the Centre-North of Portugal), with case No. 94/03.7JAGR. The facts took place in 2002, the custodial penalty was 19 years and the ruling was dated 14 February 2006.

<sup>62</sup> This case gave rise to two penal proceedings, one regarding very young offenders (custody educative proceedings) with the number 468/06.1TMPRT, the other involving a young man, with number 324/06.3JAPrt.04.03.

Office did address the possibility of perpetration *in concreto*, in this demonstration, of crimes for the purposes of article 240 of the Criminal Code. It rather gave an opinion in general terms, preparing guidelines for the future.<sup>63</sup>

101. The Prosecutor General's Office stated that a demonstration does not depend on an authorisation, although it may be subject to some conditions, such as the fulfilment of the duty of previous information to the authorities that it will happen, in order that police forces may create the security conditions necessary to a peaceful demonstration. Another question was that of knowing whether a demonstration could be prevented or interrupted by police forces. The prevention of a demonstration may only take place as a preventive measure, if the demonstration offends the Law, morals, or the rights of other citizens. An interruption as a security enforcement measure will be determined by the police command of the forces in charge of the demonstration and only if the legality, the internal security and the rights of citizens are menaced in the circumstances of the case. It should be stressed that the Constitution of the Portuguese Republic imposes on demonstrators the duty to carry out a peaceful demonstration and that they may not be armed. Besides, demonstrations must be peaceful, which is a more specific requirement, as the fact of not bearing weapons does not by itself exclude all forms of violence. The legal opinion given by the Prosecutor General's Office stressed that this possibility of preventing a demonstration may only occur when the demonstration has not been previously communicated to the authorities. Where the demonstration has been announced, other security measures may take place, such as the detention by police forces of persons who commit offences during the demonstration. Naturally, whenever a criminal act is committed, criminal prosecution will normally take place under the law in all these cases, regardless of specific measures adopted by police forces in the context of the demonstration.

## **Article 5**

### **1. Information grouped under particular rights**

#### **(a) The right to equal treatment before the tribunals and all other organs administering Justice**

##### *(i) Fight against terrorism and non-discrimination*

102. Following the adoption of European Union Council Framework Decision 2002/475/JHA of 13 June 2002 on combating terrorism, Portugal has adopted a number of anti-terrorist measures. The Decision stressed the need for effective measures in the repression of terrorism (p.7) without hindering human rights as guaranteed, in particular, by the European Convention on Human Rights. After terrorist offences are defined in article 1 of the Framework Decision, paragraph 2 of that same article stresses that the Framework Decision shall not have the effect of altering the obligation to respect fundamental rights and fundamental legal principles.

103. Act No. 52/2003 of 22 August 2003 gives effect to the Framework Decision. Following the definition of national and international terrorist offences and provisions concerning the responsibility of the perpetrators (prison sentences, liability of legal persons), this law extends the universal jurisdiction of the State. None of the rules laid down in the Act may imply a reduction in the guarantees (and, in particular, procedural guarantees) ensured to citizens.

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<sup>63</sup> The advice is Legal Opinion No. 832005 of the Prosecutor General's Office dated 24/11/2005.



104. As far as the danger of ethnic profiling or stereotyping is concerned, reference should be made to the fact that the Portuguese Law on Data Protection (Law No. 67/98 of 26 October 1998) expressly prohibits the treatment of personal data dealing with racial or ethnic origin (article 7/1).

105. In the line of what was said in item 2-C regarding ACIDI's work in the field of racial discrimination, the Commission for Equality and Against Discrimination (CICDR) has played an important role in this regard. This Commission is an independent body devoted to the fight against racial discrimination functioning close to ACIDI, with the following objectives:

(a) To accompany the procedures for certain sanctions (*contra-ordenações*) and the complaints connected to racial, nationality or ethnic discrimination;

(b) To gather information related to discriminatory acts and the respective sanctions;

(c) To recommend the adoption of regulatory and administrative policy measures adequate to the prevention of discrimination on the basis of race, colour, nationality or ethnic origin;

(d) To promote research on the issue of racial discrimination;

(e) To submit an annual report on equality and racial discrimination in Portugal.

106. Within its activities, the following should be mentioned:

In 2006, CICDR published an information note on the "Position regarding references to nationality, ethnicity, religion or administrative situation in the news produced by official sources and the media"; in 2007, CICDR's website was launched ([www.cicdr.pt](http://www.cicdr.pt)) with, among others, the duty of receiving complaints online against racial discrimination acts, as well as the possibility, at any time, of checking the ongoing situation. The website of CICDR also includes a special tool called "Racism on Internet", where users may accede to a national project called "Safe Internet", co-financed by the European Union under the project "Safer Internet Plus", in which citizens may file a complaint against an Internet blog or website raising racist issues, which implies immediate action in cases where the site is located in Portugal.

107. ACIDI and CICDR were also involved in two national contests against racial discrimination: "My School Against Racial Discrimination", promoted in 2007 within the Year of Equal Opportunities for All, and, in 2008, "Poster against Racial Discrimination", supported by the European Commission within the European Campaign "For Diversity, Against Discrimination".

108. The contest "My School Against Racial Discrimination" aimed at awarding actions developed by students, valuing information or training against discrimination and racism, as well as promoting dialogue and cooperation between different persons and cultures. It involved around 110 schools and 6.000 pupils from 17 out of the 18 districts of the country. The first prize was awarded to 3 classes from 3 different schools that had the opportunity to visit UNESCO's Head Office in Paris.

109. Regarding the Poster contest, there were 181 applications coming from all over the country. The first prize was awarded, but there were also Honour prizes granted to seven participants. The first prize was awarded to Pedro Almeida Regadas, who received € 1,500.



The winner Poster

110. Another case was the public stand taken by CICDR, among others in the case of false rumours spread by e-mail messages on alleged kidnapping of children in Chinese shops for organ traffic, trying to persuade people not to go to those shops. A formal complaint was also filed against unknown persons, for racial discrimination crimes.

- (ii) *Thorough investigation of claims of racial discrimination. Independent and effective scrutiny of claims made against officials*

111. Claims of racial discrimination follow the law covering other kinds of crimes. There is no record of a racially motivated crime perpetrated by an official.

112. The Statute of Judicial Magistrates, the Organic Law on Public Prosecution and the laws governing courts' organisation, as well as the different codes of procedure, impose and ensure the equality of parties. Persons entrusted with law enforcement (judges, prosecutors and public servants) and execution (police forces) receive comprehensive training in human rights and, in particular, the fight against racism and racial discrimination. Thus, the admission to the *Centro de Estudos Judiciários* (the Portuguese school for judges and prosecutors) depends on the approval in two examinations, written and oral, followed by a phase of academic study that lasts several months, itself followed by a practice period, in which human rights courses are given to auditors.<sup>64</sup> This preparation is complemented by permanent training provided to judges and prosecutors in seminars and conferences.

- (iii) *Prevention of racial discrimination in the administration and functioning of the criminal justice system*

113. Police bodies also benefit from training courses in the human rights field, notably covering racism issues. For instance, the Public Security Police (PSP) organises neighbouring police actions. These involve permanent police action close to the populations in different areas of daily life implying contact with populations, those contacts being extremely delicate. These actions are covered by Strategic Directive No. 10/2006 of 15 May 2006 (on the integrated neighbouring police programme), which is implemented through the presence in the field, across the whole national territory of the 18 sub-units of the PSP (one per district). These police actions involve the use of teams focused on victims (EPAV – covering, among others, racial discrimination victims, or victims of racially motivated acts) and teams of the Safe School Programme. Police agents who are part of these teams are called *Neighbourhood Agents*. They are prepared to enforce rules of *empowerment* or power delegation and accountability rules. They must contact citizens in general, municipal services, courts, local technicians for certain social security

<sup>64</sup> Future judges and prosecutors.

programmes, the executive councils of schools, merchants and citizens in general. The responsibility of the *Neighbourhood Agents* is one of the main elements of the programme, namely through the definition of procedure protocols, of formulae and action rules that bind them in order to detect problems, assess public security and road safety (in the case, namely, of abandoned cars, public illumination, graffiti, traffic damaged — or destroyed — signals, abandoned houses, the identification of minors at risk, cases of persons being victims or situations of abandoned minors).<sup>65</sup>

114. To quote only a second example, reference should be made to training provided in the Judiciary Police field, notably in the function of Criminal Investigation Coordinator. Every Judiciary Police agent follows training courses and is submitted to academic requirements aimed at preparing him to understand human rights as connected to local police action. The Criminal Investigation Coordinator is also prepared in this area, under a strong ethic, deontological approach that is basically centred in human rights.<sup>66</sup>

115. Finally, the Council of Ministers Resolution No. 37/2002 of 28 February 2002, containing the Deontology Code of Police Services, lists in its article 2 the fundamental principles which guide the action of these forces. The execution of duties arising from the Law, the defence of public interest, the defence of democratic institutions and bodies, the protection of persons against any illegal acts, the respect for human rights, are the main duties of Police forces. These, as responsible for law enforcement, are bound by values of humanism, justice, integrity, honour, impartiality and exemption, honesty and solidarity.

116. In their action, members of security forces owe absolute respect for the Constitution of the Portuguese Republic, the Universal Declaration of Human Rights, the European Convention on Human Rights, the rule of law in the community, international agreements, the Law and the deontology code (art. 2, fundamental principles).

117. According to article 3 of the Deontology Code for Police Forces, members of security forces promote, respect and protect human dignity, the right to life, to freedom and security, as well as the fundamental rights of any person, regardless of his/her nationality or origin, social condition, political convictions, religious or philosophic convictions. In particular, these forces have the duty not to inflict, under any circumstances, nor to instigate or tolerate, inhuman, cruel or degrading acts.

118. Article 7 encompasses the rule of correction in every action: “Members of security forces must behave in such a way as to preserve the confidence, the consideration and the prestige which are inherent to the police function, by treating with urbanity and correction every citizen, national, foreign or stateless, by promoting conviviality and by providing all the help, information or indications which are demanded from them, within their competences.”

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<sup>65</sup> See [www.psp.pt](http://www.psp.pt).

<sup>66</sup> See [www.pj.pt](http://www.pj.pt). And, in this website, the opening speech of the course for the function of Criminal Investigation Coordinator, delivered by the National Judiciary Police Director, who addresses human rights in detail, beginning by the respect of deontology rules enshrined in the Portuguese Public Service Deontology Chart, appended to the Council of Ministers Resolution of 18 February 1993.

(b) **The right to security of person and to protection by the State against violence or bodily harm, whether inflicted by government officials or by any individual group or institution**

(i) *To ensure equal protection of security and the integrity of victims or potential victims of racial discrimination*

119. In this regard, the Portuguese Government would like to refer to paragraph A of Part I. It would also draw attention on the latest CAT Report with reference CAT/C/67/Add. 6 dated 31/05/2005, in particular in connection to the action of police forces.

120. In this area, UVIDRE contributes to protect the security of victims or potential victims of discrimination (see article 2., B).

(ii) *To prevent the use of illegal force by the police against persons belonging to groups protected under the Convention*

121. On this, the above-referenced CAT report should also be mentioned, in particular as regards training actions implemented for police forces and the action of the Portuguese IGAI.

(iii) *To encourage appropriate arrangements for communication and dialogue between the police forces and groups of victims or potential victims of racial discrimination*

122. Regarding this subject, see also article 2., B regarding the UVIDRE.

(iv) *To encourage recruitment of members of groups protected under the Convention into the security forces and Law enforcement agencies*

123. The Constitution and the Law do not allow any kind of positive discrimination which would facilitate the integration of members of groups protected under the Convention into security forces and Law enforcement agencies. The Socio-Cultural Mediator is, perhaps the unique case in which vulnerable groups have a privileged access to functions of public relevance. However, nothing in the Law or in practice prevents members from vulnerable groups to enter and to pertain to security forces and Law enforcement agencies.

124. The reform of the Portuguese Nationality Act through Organic Law No. 2/2006 of 17 April 2006 is also worth mentioning. It has translated itself in a more generous law, as in the case of the 2<sup>nd</sup> or 3<sup>rd</sup> immigrant generations, by allowing these citizens to acquire Portuguese nationality under certain conditions, thus reducing the number of immigrant descendants and turning Portugal in a *Jus Soli* nationality country.

125. Trafficking in human beings is covered, in particular, by Decree-Law No. 368/2007 of 5 November 2007. Victims of trafficking are irregular migrants who also have rights. Once identified as such, victims of traffic immediately get a special temporary residence permit as long as they cooperate with law enforcement authorities for the detection of the illicit facts. The victim has also the right to free legal support, as well as to social and medical assistance.

126. In the field of education and health assistance provided to non-Portuguese citizens who are on Portuguese territory without a legal status, no child may be refused the benefits of public schooling on account of the irregular situation of his/her parents. The legal registry of irregular minors is confidential.

127. The General Direction for Health of the Health Ministry has issued its Circular No. 12/DQS/DMD of 07/05/09 clarifying the guidelines followed since 2001, meaning that irregular immigrants who remain in Portugal for a period of more than 90 days may not be

discriminated against in access to public health care although, in general terms, they might have to bear its real costs. Regular immigrants have the same rights as national citizens in this area.

128. Besides the Law related to the extinction of fascist organizations and the prohibition of racist organizations by article 46 (4) of the Constitution, a constant work is made to discourage racism, racial discrimination and racist organizations. This work also takes place in the field of Justice with court decisions, in particular those mentioned in previous Portuguese reports to CICDR.

129. As referred in previous reports to CICDR, immigrant associations may become “assistants” (private prosecutors) in penal proceedings involving criminal liability for racist acts. Article 5 of Law No. 18/2004 grants these associations a special status, as they have the possibility of intervening in representation and support of victims.

130. Now not addressed only to racism but also to other grave forms of discrimination, changes introduced in the wording of article 240 of the Criminal Law by Law No. 59/2007 of 4 September 2007 have enlarged the scope of discrimination to cover sexual discrimination, in particular on the basis of gender and sexual orientation.<sup>67</sup>

- (v) *To ensure that non-citizens are not returned or removed to a country where they are at risk of being subject to serious Human Rights abuses*

131. On this issue, Portugal refers to written answers given to CAT I September 2007, under the reference CAT/C/PRT/Q/4/Add.1 dated 5/10/2007, in particular to answers given under article 3 to questions nos. 2, 3, 4, 6 and 7. On this, the Portuguese Government recalls that, under its Law No. 27/2008 of 30 June 2008, the judicial appeal against a decision of the Foreigners and Borders Service of not accepting the asylum application has a suspensive effect on the decision taken but challenged.

(c) **Political rights**

132. The exercise of political rights is ensured to every citizen, regardless of his/her origin, nobly ethnic.<sup>68</sup> Examples of these cases are given in previous points as regards ACIDI’s work: the municipal mediators within and for the Roma Community; the socio-cultural mediators<sup>69</sup> provided by the Immigrants’ associations, working in the National and Local Centres for Immigrant Support.

133. Citizens with foreign nationality have their political participation rights limited to the level of local elections (art. 15 of the Constitution of the Portuguese Republic) and

<sup>67</sup> For the text, see below.

<sup>68</sup> According to article 20 of Organic Law No. 2/2003 of 22<sup>nd</sup> August 2003, i.e. the Law on Political Parties:

“1. Nobody may be forced to affiliate in any political party, and nobody may be constrained, by any means, to stay in that party.

2. Nobody can be refused affiliation in a political party or be expelled from it on the grounds of his ascendance, gender, race, language, territory of origin, religion, instruction, economic situation or social status.

3. Nobody may be benefited, prejudiced or deprived of any right or exempted of any duty on the grounds of his political affiliation.

4. Foreigners and stateless persons legally residing in Portugal and who affiliate in a political party benefit from participation rights that are compatible with the political rights status recognised to them.”

<sup>69</sup> For example, somebody who speaks Russian, or Creole, etc. ....

under conditions of reciprocity, which currently only occur with Cape-Verdean and Brazilian citizens, being excluded from legislative and presidential elections with the sole exception of Brazilian citizens.<sup>70</sup>

**(d) Other civil rights**

*(i) The right to freedom of movement and residence within the border of the State*

134. This right has no restrictions. Article 59 of Law No. 23/2007 of 4 July 2007 provides for an immigrants' reference entry number according to the number of available working posts and subject to experts' advice. This will naturally turn the choice of the place of settlement dependant upon the availability of a working place and of its location. There are also immigrant quotas for the two Portuguese Autonomous Regions (Azores and Madeira), under the same principle. This restriction does not seem to be excessive, as the immigrant will be able to move freely on the whole Portuguese territory once he settles in the country for work and effectively develops his activity there.

*(ii) The right to leave any country and to return to one's country*

135. Article 44 (2) of the Portuguese Constitution provides that "every citizen shall be ensured the right to emigrate or to leave Portuguese territory and the right to return thereto".

*(iii) The right to nationality*

a. Non-discrimination in access to citizenship or naturalization

136. As mentioned earlier, the reform of the Portuguese Nationality Act through Organic Law No. 2/2006 of 17 April 2006 led to a more generous law, as in the case of 2<sup>nd</sup> and 3<sup>rd</sup> generation immigrants, by allowing these citizens to acquire Portuguese nationality under certain conditions, thus reducing the number of immigrant descendants and turning Portugal, also, into a *Jus Soli* nationality country.

137. Article 6 of Law 2/2006 was redrafted so that, in mist situations described in that provision, the State now "grants" nationality, in contrast with the previous rule that provided that the State "may grant" nationality. This legal provision limits the number of situations where those responsible for deciding on whether to grant nationality through naturalization may exercise their discretionary powers.

b. The specific situation of long-term or permanent residents

138. This new legislation has also widened the criteria for attribution and acquisition of nationality, by enhancing the principle of *ius soli* through the recognition of individuals having a strong connection to Portugal:

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<sup>70</sup> See the "Statute on equal political rights obtained under the Treaty of Friendship, Cooperation and Consultation between the Portuguese Republic and the Federal Republic of Brazil", which entered into effect on 5 September 2001 — published in the Official Journal, *Diário da República*, I Series A dated 14 December 2001, and its Regulation — Decree-Law No. 154/2003 of 15 July 2003). Citizens involved in this status may be electors to Parliament (*Assembleia da República* – art. 17 of the Treaty and art. 16, par. 1, 19 and 20 of Decree-Law No. 154/2003) and may be elected under the new wording of article 15 (3) of the Constitution of the Portuguese Republic (2001 Revision). *Lei Eleitoral da Assembleia da República, Edição anotada e comentada. Maria de Fátima Abrantes Mendes e Jorge Miguéis. 2005.*

(a) Attribution of Portuguese nationality by origin to those born on national territory having foreign parents, if at least one of these was also born in Portugal and had his/her residence here when the child was born;

(b) Attribution of Portuguese nationality by origin to those born on national territory having foreign parents who are not on duty in their countries, if the child declares that he/she wants to be Portuguese and where at least one of the parents has had his/her residence for, at least, 5 years in the country;

(c) Establishment of a general right to naturalization for minors born on Portuguese territory from foreign parents if, at the time of the application, one of the child's parents has/had his/her residence in the country for, at least, 5 years, or if the child has concluded in Portugal the first level of basic education.

c. Action taken to reduce statelessness

139. Portuguese legislation provides that persons born on national territory who have no other nationality, regardless of the fact having led to that situation, acquire Portuguese nationality by origin (article 1 (1) f) of Law No. 2/2006 and article 3 c) of Decree-Law 237-A/2006). Therefore, children born in Portugal who would otherwise be stateless are granted *ex lege* Portuguese nationality at birth.

140. Any minor, under the age of 14, found abandoned on national territory will also acquire Portuguese nationality by origin, since:

(a) Article 105 of the Portuguese Civil Registry Code considers as abandoned any new-born from unknown parents, as well as any other person apparently under the age of 14 or mentally disturbed whose parents, known or unknown, keep away in an unknown place, forsaking their child;

(b) An abandoned child is considered as having been born in the place where he/she was found (article 107 of the Civil Registry Code);

(c) Every new-born found on Portuguese territory is assumed as having been born in Portugal (article 1 (2) of Law No. 2/2006).

141. Finally, Portuguese nationality may only be lost *ex voluntate* — by a statement of the individual declaring that as his/her will — and this is only possible where the person already has another nationality (articles 8 of Law No. 2/2006 and 29 of Decree-Law No. 237-A/2006).

d. Whether different standards of treatment for accessing citizenship are applied to non citizen spouses (female and male) of citizens

142. Article 3 of Law No. 2/2006 and article 14 of Decree-Law No. 237-A/2006 provide that any individual who, for a period of 3 years, has been married to, or has been in a registered partnership with, a Portuguese citizen is eligible to acquire Portuguese nationality by declaring it to be his/her will, without going through the process of naturalization.

(iv) *The right to marriage and choice of spouse*

143. According to article 36 (1) of the Portuguese Constitution, "Everyone shall possess the right to found a family and to marry in terms of full equality."

144. The Lisbon Court of Appeal rulings in decisions 454/2006-7 of 10/03/2006 and 4398/2007-7 of 14/11/2007, though not addressing the specific issue of racial discrimination, focus the right to marry and to choose one's spouse when explaining that

the International Public Policy Exception should apply, for example, where the applicable foreign law prohibits the celebration of marriage between persons of different races.

145. An important change has been made regarding the form of celebration of the civil marriage (as opposed to the catholic marriage, both types of marriage foreseen in the Civil Code). Article 1615 of the Civil Code allows civil marriage to be celebrated under a religious form according to special legislation [subparagraph b)]. Article 1616, subparagraph b), provides that the person intervening in the civil marriage shall be a duly accredited minister of the cult, in a civil marriage under a religious form, thus opening the door to religious marriages other than Catholic ones, in forms foreseen under ethnic minority traditions or in immigrant community traditions. Law No. 16/2001 of 22<sup>nd</sup> June 2001 and Decree-Law No. 324/2007 of 28 September 2007 introduced a new wording to these important provisions of the Civil Code.

(v) *The right to own property*

146. According to article 62 of the Portuguese Constitution, “everyone shall be guaranteed the right to private property and to transmission thereof in life or upon death, as laid down by this Constitution”.

(vi) *The right to inherit*

147. According to article 62 of the Portuguese Constitution, “everyone shall be guaranteed the right to private property and to transmission thereof in life or upon death, as laid down by this Constitution”.

(vii) *The right to freedom of thought, conscience and religion*

148. The Portuguese Constitution provides in article 41, on “freedom of conscience, religion and worship”, that:

1. *Freedom of conscience, religion and worship shall be inviolable.*
2. *No one shall be persecuted, deprived of his rights or exempted from his civic obligations or duties because of his convictions or religious observance.*
3. *No authority shall question anyone in relation to his convictions or religious observance, except in order to gather statistical data that cannot be individually identified, nor shall anyone be prejudiced in any way for refusing to answer.*
4. *Churches and other religious communities shall be separate from the State and free to organise themselves and to perform their ceremonies and their worship.*
5. *Freedom to teach any religion within the denomination in question and to use appropriate media for the pursuit of activities shall be guaranteed.*
6. *The right to be a conscientious objector, as laid down by law, shall be guaranteed.*

149. This article should be interpreted together with article 13 of the Constitution (principle of equality) according to which:

1. *Every citizen shall possess the same social dignity and shall be equal before the law.*
2. *No one shall be privileged, favoured, prejudiced, deprived of any right or exempted from any duty on the basis of ancestry, sex, **race**, language, place of origin, religion, political or ideological beliefs, education, economic situation, social circumstances or sexual orientation (emphasis added).*



150. Article 19 (6) of the Constitution prohibits any restrictions to the freedom of conscience, religion and worship, even if the state of siege or the state of emergency have been declared.

151. In order to make this constitutional right effective in everybody's life, article 240 of the Criminal Code was drafted as referred in the case of article 4.-A. above.

152. As regards the Religious Freedom Act, there have been changes in its legal framework in Portugal, consisting of further regulation of the Religious Freedom Act — Law No. 16/2001 of 22<sup>nd</sup> June 2001 —, in particular:

(a) Decree-Law No. 308/2003 of 28 July 2003, as amended by Decree-Law No. 204/2007 of 28 May 2007, sets the legal framework for the Portuguese Commission on Religious Freedom, with rules regarding its powers and responsibilities, the legal status of its members and operation conditions. This Commission was created by a Decree of the Minister of Justice of 12 February 2004;

(b) Decree-Law No. 134/2003 of 28 July 2003 regulates the registration of a religious legal person;

(c) Decree-Law No. 324/2007 of 28 September 2007 amending civil legislation — such as the Civil, the Civil Registry and the Notary Codes — in order to grant civil effect to all marriages religiously celebrated before the minister of a church or religious community, under the terms set forth by the Civil Registry Code;

(d) Decree-Law No. 100/1«2009 of 11 May 2009 amending the Civil Code and the Civil Registry Code in accordance with the provisions of the 2004 Concordat relating to the need for ecclesiastical court decisions for marriage annulment to go through the Portuguese process of confirmation and revision of foreign decisions in order to be effective under civil law.

(viii) *The right to freedom of opinion and expression*

153. According to article 37 (Freedom of expression and information) of the Constitution:

1. *Everyone shall possess the right to freely express and publicise his thoughts in words, images or by any other means, as well as the right to inform others, to get information and to be informed without hindrance or discrimination.*

2. *The exercise of these rights may not be hindered or limited by any type or form of censorship.*

3. *Infringements committed in the exercise of these rights shall be subject to the general principles of Criminal Law or the law governing administrative offences, and shall be brought before the courts of law or an independent administrative body, as laid down by law.*

4. *Every person and body corporate shall be equally and effectively guaranteed the right to reply and to make corrections, as well as the right to a compensation for damages suffered.*

154. This article applies to all citizens, regardless of their race (articles 13 and 18 of the Constitution).

(ix) *The right to freedom of peaceful assembly and association*

155. As referred above, article 46 of the Constitution provides:

1. *Citizens shall have the right to freely associate with each other without requiring any authorisation, as long as the association is not intended to promote violence and provided that its aims are not contrary to criminal law.*

2. *Associations shall pursue their purposes freely and without interference from public authorities and shall not be dissolved by the State or have their activities suspended, except in such cases as the law may provide for and then only by judicial order.*

3. *No one shall be obliged to belong to an association, or be coerced to remain therein by any means.*

4. *Armed associations, military, militarised or paramilitary-type associations and organisations that are racist or display a fascist ideology shall not be permitted.*

156. Paragraph 4 prohibits any association pursuing a racist or fascist ideology, thus preventing any breaches to the principle of equality and non-discrimination.

157. A program named “On the spot association” allows any citizen to incorporate an association in a very short time (less than one hour). With the “On the spot association” service, it is now possible to start an association in a “one-stop counter” and in an immediate way. This is a way of concretely implementing the rights foreseen in the Constitution. For further information, please check: <http://www.cuttingredtape.mj.pt/uk/citizens/detalhe.asp?id=50>.

158. These rights should be understood in accordance with article 15 of the Portuguese Constitution, which places foreigners in the same footing as Portuguese citizens. They should also be interpreted in accordance with the Universal Declaration of Human Rights (UDHR) under article 16 (2) of the Portuguese Constitution and the catalogue of Human Rights does not exclude any other human rights deriving from the relevant texts of International Law. Finally, the interpretation of the UDHR shall derive, first of all, from its interpretation by international bodies empowered to interpret international texts, in particular the European Court of Human Rights and the treaty monitoring bodies of the UN.

159. In the respect and promotion of the freedom of opinion and expression, ACIDI provides financial support to the around 121 immigrants’ associations officially recognized by ACIDI. The recognition process is based upon a certain number of requirements, such as the obligation of having their statutes (articles of association) published, of including in their object or social denomination the promotion of the rights and specific interests of immigrants and pursuing activities that prove the effective promotion of immigrants’ rights and specific interests. The representative recognition is preceded by an advice from the Advisory Council for Immigrant Affairs, functioning near the ACIDI.<sup>71</sup>

**(e) Economic, social and cultural rights**

*(i) The right to work*

160. Persons belonging to ethnic minorities have the right to work like any citizen. Article 2 (2) of Law No. 18/2004 refers the Labour Code, which forbids the discriminatory practice that consists of submitting to racial factors the offer of employment, the end of the labour contract or the refusal to engage in a contract. The sanctions for those kinds of

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<sup>71</sup> See also, Article 2, point C.

behaviour may reach five times the highest value of the minimum wage, without prejudice to the criminal liability and liability in tort that may arise.<sup>72</sup>

161. While all Portuguese public services related to the fields of professional training and the promotion of migrant employment benefitted from capacity-building (in 2008 and 2009 a total of 94 training activities with 350 hours of training and serving 2,099 trainees), emphasis was also given to working directly with migrants. A great number of other training and capacity-building activities has been carried out to ensure that public services can duly process requests and also work in a culturally-sensitive environment while also taking note of gender-specificity.

162. The recognition of competences and foreign academic degrees is essential to promote the integration but also the mobilization of professional skills of mid- to highly-skilled migrants, so that they can later apply them in their origin countries. The enactment of legislation — namely on the recognition of foreign higher education degrees (Decree-law nr 341/2007 and Regulation nr 29/2008) — created the framework and allowed for simplified procedures, thereby generating an increased number of recognized foreign competences:

- In 2008: 218 processes (Bachelor level: 64; Master level: 10; Doctorate level: 144)
- In 2009: 502 processes (Bachelor level: 288; Master level: 90; Doctorate level: 124)

163. In the framework of the improvement in employability levels in Portugal and of the increased access of migrants to the Portuguese labour market, the specific network of Offices for Professional Insertion of Immigrants has allowed for targeted assistance and gender-specificity in the promotion of migrant employment and entrepreneurship (more information on female entrepreneurship for 2009 is available ahead):

- (a) 5.600 migrant women out a total of 10.137 migrants were referred to job vacancies;
- (b) 1.024 job placements for migrant women of a total of 1.640 migrants;
- (c) 883 migrant women were referred to training opportunities out a total of 1.517 migrants;
- (d) 459 placements of migrant women in training activities out of a total of 769 migrants;
- (e) 69 migrant women were referred to institutions promoting entrepreneurship out of a total of 163 migrants;
- (f) 182 requests for recognition of equivalence of secondary education were filed by migrant women, out of a total of 336;
- (g) 58 requests for the recognition of equivalence of higher education competences were filed by migrant women, out of a total of 87.

164. Support to self-employment is also foreseen through the constitution of programmes and measures led by the Institute for Employment and Professional Training (IEFP) directed at the promotion of employment, among which the Local Employment Initiatives and the support to the Creation of Self-Employment:

- (a) A total of 132 Local Employment Initiatives have been created by migrants and supported by the IEFP (76 in 2009);

<sup>72</sup> On labour questions, see also the quoted Númena Report, p. 32 *et seq.* For an interesting best practice addressed at Roma population on a training level, see also, in the same report, p. 38, par. 47.

(b) A total of 114 Self Employment initiatives were created and supported by the IEFPP (45 in 2009).

#### Migrant entrepreneurship and employment creation

165. Migrant entrepreneurship has an increasing role as an alternative for the professional integration of migrants and represents an important contribution towards the creation of employment opportunities at the local level but also for the accumulation of financial capital.

166. The creation of the Office for Entrepreneurship Support within the ACIDI and the CNAI structure provides support to migrants willing to create self-employment, and in the constitution of projects, namely with regard to their economic viability and execution plans. Then migrants are referred to the Portuguese National Association for the Promotion of the Right to Credit (ANDC) for further technical and fund-seeking support:

(a) 525 interviews have been carried out with migrant entrepreneurs;

(b) 64 migrant women benefitted from support in 2008 and 47 in the first trimester of 2009.

167. In 2009 ACIDI created the pilot Project for the Promotion of Migrant Entrepreneurship was created aiming at developing personal, social and management skills of migrants, and allowed for:

(a) Involvement of 159 potential entrepreneurs and graduation of 99 of these migrants from the course “Support to the creation of businesses”;

(b) Constitution of 5 businesses;

(c) 45 project ideas approved and referred for funding from financial institutions;

(d) Involvement of 14 mentors.

168. The Centres for Entrepreneurial Development of the Institute for the Support to Small and Medium Enterprises (IAPMEI), under the Ministry of Economy, have also assisted in the information provision to more than 330 migrants.

169. Specific support to women migrant entrepreneurship was promoted by CIG through the release of two tenders under the Portuguese National Strategic Reference Framework (QREN) and its affiliate Operational Programme for Human Potential (POPH) in the fields of “support to entrepreneurship, associativism and creation of entrepreneurial networks of economic activities managed by women”:

(a) In the first tender 52 projects were supported, involving 720 women, while on the second tender 54 projects were supported, counting on the involvement of 742 women;

(b) Both tenders also foresaw side activities of training and capacity-building, consultancy and support to the creation of inter-enterprise networks with the possibility of attribution of start-up prizes to each company constituted;

(c) The ACIDI-led workshop on “Employment, Self-employment and Qualification” held in 2009 has also allowed for an additional 5 women to benefit from training and capacity-building.

170. While it cannot approve micro-credit itself, ANDC has protocols established with Portuguese commercial banks and can assist nationals or migrants with legal residence in obtaining funding for their projects. Since 1999, it has supported:

(a) 116 projects of nationals from African countries in a total of EUR 621.395,95, 65 (or 56%) of which have been submitted by women;

(b) 34 projects of South American nationals involving a total of EUR 181.484,63, 12 (or 35.3%) of which were presented by women.

171. Since the data is grouped by nationality, foreign-born Portuguese nationals may also have a migratory background and increase the figures related to foreign-born/migrant entrepreneurship.

(ii) *The right to form and join trade unions*

172. As regards access to trade unions, the constitution or affiliation in trade unions, the reply given in item 1 above applies. In cases where an employer would sanction a worker on the grounds of affiliation or participation in the creation of a trade union, the normal solutions provided by Labour Law would apply, without prejudice to the possibility of engaging administrative proceedings against the worker under Law No. 18/2004 of 11 May 2004 and, on a subsidiary basis, under Law No. 134/99 of 31 August 1999, civil proceedings (arts. 483 and 70 of the Civil Code) or criminal proceedings (art. 240 of the Criminal Code where the elements of the type coexist).<sup>73</sup>

173. The above-referenced Plan for Immigrant Integration included a specific measure (measure 12) for promotion of trade union membership among immigrants. Its aim, in conjunction with trade unions, is to encourage immigrants to become union members, not only as a way to safeguard their employment rights, but also as a method of social integration in Portuguese society. In this context, ACIDI and the two major trade unions are preparing a leaflet implementing this measure.

(iii) *The right to housing*

174. Since the 5<sup>th</sup>, 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> reports,<sup>74</sup> the 9<sup>th</sup> Report,<sup>75</sup> the 10<sup>th</sup> and 11<sup>th</sup> Reports<sup>76</sup> of Portugal to CERD, reference is made to PER, the Specific Re-housing Programme, and to the PER-families, the family-oriented PER. These programmes, launched in the 1990s, have known considerable success, as they consisted of re-housing in adequate homes families and persons who used to live in slums, by destroying these and by the construction of good buildings in their place. It seems clear nowadays that, in spite of the success of these initiatives, they promoted the re-housing of persons of the same origin in the same neighbourhoods and that not all re-housing measures have been entirely successful. Certain families did not have access to these mechanisms. The PER and PER-families programmes are now concluded and, therefore, persons who were excluded from these advantages are helped, as much as possible, by municipalities, NGOs and religious organisations, some of them associated to the Labour and Solidarity Ministry, such as the *Santa Casa da Misericórdia de Lisboa*.<sup>77</sup>

175. In order to finance access to housing, the Portuguese Government launched the Programme PROHABITA,<sup>78</sup> to tackle situations of serious housing needs by families living

<sup>73</sup> See, in this regard, the above-referenced Númena Report, p. 36 *et seq.*, in particular paragraphs 43 and 44.

<sup>74</sup> CERD/C/314/Add.1.

<sup>75</sup> CERD/C/357/Add.1.

<sup>76</sup> CERD/C/447/Add.1.

<sup>77</sup> On this, see also the above-referenced Númena Report, p. 55 *et seq.* In general, §§ 85, 86, 87, 88. On segregation and neighbourhood integration, §§ 91, 92, on policy initiative, §§ 93, 94, 95. On practical initiatives by civil society and Government, § 97, pp. 58–59.

<sup>78</sup> Created by Decree-Law No. 135/2004 of 3<sup>rd</sup> June 2004, as amended by Decree-Law No. 54/2007 (DR

in the country. Between 2008 and the first semester of 2009, within the programme, 2.379 houses were built, rented or intervened, with 6.575 persons as potential beneficiaries.

176. In order to benefit youngster access to rented housing, a governmental specific programme was also conceived: the IAS, promotion of youngsters' house renting (*Incentivo ao Arrendamento Jovem*), later replaced by "Porta 65-Jovem"<sup>79</sup> (Door 65 – Young People). This second programme, addressed to people under 30 years of age, benefited 12 779 candidates in 2008.

177. Housing access and affordability for immigrants and minority groups is a special concern in the Portuguese Immigrants' Integration Plan and have deserved a special debate in its Second Annual Report (May 08–May 09).

178. This Plan integrates several sectorial measures in an integrated and synergetic approach to the elimination of racial discrimination and to the integration of immigrants and minority groups. Housing is a crucial, strategic sector in this regard, when ensuring that no programme discriminates access to housing on the basis of race, gender or nationality. This means that both in the Constitution (Article 65 – Housing Rights) and in the eligibility for housing programs "all" have the same rights and duties.

179. Discrimination does not take place in data collection either, but we can estimate that the main programs for housing initiatives included in this Plan involve and present relevant impact in immigrants' and minority groups' access to housing and in local territorial participation:

(a) It is estimated that around 5% of families that had access to public housing were immigrants (Programs PROHABITA<sup>80</sup> and PER<sup>81</sup>);

(b) It is estimated that 5% of young people who had access to subsidies in order to rent a house were immigrants (*Porta 65 -Jovem*)<sup>82</sup>;

(c) Activities held and developed under the "Critical Urban Areas Initiative"<sup>83</sup> engage and involve the whole community in the three neighbourhoods where immigrants, minority groups as gypsies, and inhabitants from Portuguese-speaking countries (PALOPs) are overrepresented, as well in all "Urban Regeneration Partnerships" where IHRU participates;

(d) A specially oriented partnership intervention has been developed between IHRU and ACIDI regarding an experimental collective residential solution to support families coming from PALOPs to Portugal in search for health support.

50, 1<sup>st</sup> Series, 2007-03-12).

<sup>79</sup> Created by Decree-Law No. 308/2007 of 3<sup>rd</sup> September 2007.

<sup>80</sup> PROHABITA – a national program that finances and grants housing provision with social purposes for families with housing needs. This program allows mainly municipalities to built, buy, rehabilitate or rent houses framed by a social policy for housing.

<sup>81</sup> PER – National Special Re-housing Programme held since 1993 to eradicate slums in Lisbon and Porto Metropolitan Areas.

<sup>82</sup> "PORTA 65-JOVEM" – a program that grants direct subsidies to young persons (18–30) in access to the rental housing market.

<sup>83</sup> IBC — Critical Urban Areas Initiative — an Inter-ministerial Initiative focussed in distressed urban areas under an integrated territorial approach involving physical and socio-economic activities and a large participatory and synergetic engagement of both central and local institutions and of civil society local organizations.

180. Three main principles and strategic orientations guide the housing social policy contribution to the elimination of racial discrimination, taking into account the need to pursue in a systemic approach to this issue:

(a) To insist, in the first place, in ensuring that all available instruments do not discriminate their access to “all” inhabitants in need of support or help to access and afford a place to live in – all special difficulties connected with factors that may have more expression in immigrant, minority groups or ethnic groups should find a solution in the main instruments’ design, considering the general need to turn them as flexible as possible and able to accommodate all kinds of dynamic, specific needs. In that sense, experimental solutions are being promoted in view of their generalization in mainstreaming tools;

(b) To develop and participate in “territorial” and “synergetic” approaches and interventions that may have deeper impact in the causes of social exclusion and spatial segregation;

(c) To develop and participate in cross-level partnerships allowing both a greater efficiency in the application of sectorial policy instruments and greater efficiency and participation of their application and development at the local level, taking into account the diversity, dynamic and specificity of individual, social, cultural and spatial needs and place making links potentials.

(iv) *The right to public health, medical care, social security and social services*

181. Persons belonging to ethnic minorities have the same access as their co-citizens to the health system and to its advantages, to medical care and to social security and social services.<sup>84</sup>

182. Portugal takes into consideration that migrants are more exposed to psychological and social stress (namely due to the fact that they face an unknown culture, changes in the environment, lack of knowledge regarding destination country’s language(s), lack of trust and information, as well as specific mental and psychological health issues) and face therefore a more difficult access to healthcare and information on health services.

183. Pregnant migrant women and newly migrant mothers, young children and babies are amongst the groups with universal access to the Portuguese National Health Service, irrespective of their situation in the destination country and are entitled to the same health care services offered to Portuguese citizens, namely in the fields of sexual and reproductive and also maternal and child health.

184. These services combined with the dissemination of awareness-raising material on the specific maternal and child health services offered to pregnant migrant women and newly mothers, as well as the entitlement to State benefits on oral healthcare contributed to an increase in the number and percentage of newborns:

(a) 7689 or 6.7% of total newborns in Portugal in 2002;

(b) 9887 or 9.6% of total newborns in Portugal in 2007.

<sup>84</sup> For a developed overview of the system, see the above-referenced Númena Report, p. 62 *et seq.* As regards the general situation, see §§ 104, 105, 106, 107 ... 115, pp. 62, 63, 64 and 65. On the specific situation of health, see §§ 116 *et seq.* pp. 65 and 66. On Roma population, see § 117, immigrants, § 118, on immigrants arriving from the Portuguese-speaking countries (PALOP), see §§ 119, pp. 66–69. As regards best practices, see p. 69 *et seq.* until the end of this report. See, also, § 13, from Point A, Article 2 of this report.

185. Foreign-born citizens under family reunification schemes are also entitled to health care coverage on the part of the Portuguese National Health Service, provided a family member meets his/her fiscal duties in Portugal.

186. Access to the Health Information Line ('Saúde 24') is also ensured to migrants through the creation of a specific information service, irrespective of their residence status in Portugal.

187. Portugal, also developed the implementation of mobile units to provide healthcare, aimed at communities of immigrants and ethnic minorities.

188. Additionally, family well-being is promoted through the universal coverage of the National Vaccination Programme, whereby migrant populations are administered the immunizations all beneficiaries of the Portuguese National Health Service also receive. This programme, allowed for 92.7% coverage of the National Health Service in Portugal, in line with the increased access of migrants to Portuguese health services.

(v) *The right to education and training*

189. Once again, the same right is ensured to every citizen, although there are some difficulties with the scholarship of some groups. The CIGA-NOS programme<sup>85</sup> for these, with its good practices and projects all over Portugal, reveals how far public authorities and civil society organizations try to solve this problem, in partnerships as atypical as possible, but oriented to the solution of concrete problems.<sup>86</sup>

190. All foreign children, regardless of the administrative situation of their parents, have the right to education and, therefore, the right to attend public schools and to benefit from all they provide, like national children. As minor foreign citizens underage under the law, therefore unable to celebrate a working contract and living on their parents' incomes, they have equal access to education as other foreign children in regular situation. Decree-law No. 67/2004 of 25 March 2004 provides for the registration of underage irregular migrants, allowing the access to education in the same conditions as those who are regular. Data confidentiality is ensured in this regard.

(vi) *The right to equal participation in cultural activities*

191. The same reply of the previous paragraph may be given here, knowing that various cultural activities are organised at the level of all the ethnic minorities.<sup>87</sup>

192. Among ACIDI's activity in this area, migrant associations play an important role, being close to their communities but also building bridges with the hosting society. In order to support these associations in their annual activity plan but also in sporadic events, ACIDI has financed and supported the activities of immigrants' associations since 2001. In 2009, 46 associations were financed in a total amount of € 713,923.00.

193. More specific activities promoted by ACIDI at the cultural level include:

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<sup>85</sup> For the CIGA-NOS programme, a visit to the website of ACIDI, at [www.acidi.gov.pt](http://www.acidi.gov.pt) might be useful, in order to grasp the richness and the diversity of this programme.

<sup>86</sup> For a very complete overview of education issues questions and of the system in Portugal, see the above-referenced Númena Report, pp. 43, 44, 45 and 46. On the general situation, see §§ 57, 58, 63. On multicultural education, see §§ 66 *et seq.* On discriminatory facts, see §§ 52 *et seq.* pp. 40–41. On policy initiatives, see §§ 70, 71 and 72, p. 49 *et seq.*

<sup>87</sup> It is possible to clearly see them in the ACIDI website, at [www.acidi.gov.pt](http://www.acidi.gov.pt). Naturally, the ACIDI's activities may not cover the whole issue of cultural activities, but the High Commissariat website provides a clear idea of work developed by the associations and joint associations in connection with ACIDI in the field of cultural activities.



(a) The cultural diversity week, whose first edition took place in 2003–2004 (schools normally organize work and activities on this theme). The following editions of 2006, 2007 and 2009 had a varied cultural programme. As 2008 was the European Year for the Intercultural Dialogue, the cultural diversity week didn't take place that time on account of the great number of initiatives organized all year long. In 2009, within the cultural diversity week, under the motto “more diversity, better humanity”, two events, among others, took place between 18 and 22<sup>nd</sup> May: the translation to Portuguese of the Fundamental Rights Agency Toolkit “A Diversity Toolkit for factual programmes on public television” on 18 May and, on the 21<sup>st</sup>, the presentation in Parliament, in the context of the North-South Centre from the Council of Europe, of the “White Book on Intercultural Dialogue” in Portuguese;

(b) 2008, European Year for Intercultural Dialogue (EYID): ACIDI was appointed as the official representative of the European Year for Intercultural Dialogue (see <http://www.aedi2008.pt>). During the year, 930 events involving 551 organizations took place in Portugal, with 1,662 news published in the media, putting Portugal in the third place after Germany and Slovenia, respectively with 2,145 and 2,052 news in the media. The closing festivity of the European Year took place on 18 December 2008, the International Migrants' Day. Around the theme “Together in Diversity” on stage at the Theatre Camões in Lisbon, artists from different origins performed according to a wide range of musical and dancing trends, not only for their audience but also to the whole country, as the programme was broadcast live on the public television channel. Besides artists, public figures from immigrant background as well as Portugal's President of the Republic, Presidency Minister and the High Commissioner for Immigration and Intercultural Dialogue were interviewed. The programme had 17.2% TV share and around 512 000 viewers, going beyond all initial success expectations;

(c) A public space for cultural diversity was promoted by initiatives like the TV programme *Nós* or the radio programme *Gente como Nós*;

(d) The “Africa Festival”, with 3 editions (2005, 2006 and 2007), was organized by the municipal company EGEAC, integrated in the traditional Lisbon festivities that take place in June;

(e) Various journalism prizes were awarded, like the prize “Immigration and ethnic minorities, journalism through tolerance”. Before 2008, ACIDI used to be the only promoter of the Journalism prize “Immigration and ethnic minorities, journalism through tolerance”. In 2008, ACIDI joined forces with the Governmental Unit for the Media and with UNESCO's Portuguese Committee, that had a similar prize for journalism work, and the prize was restructured as “Human Rights, Tolerance and Fight Against Discrimination in the Media”. In its edition of 2008, the renewed prize received applications consisting of 81 communication pieces, and the awards were given on 9 December, during the celebration of 60<sup>th</sup> anniversary of the Universal Declaration on Human Rights. For 2009, the submission period went from 18 May till 31 July, and the awards were given on 10 December 2009;

(f) Two websites on intercultural education were produced by ACIDI. In 2007, ACIDI created two specific websites on intercultural education and dialogue, the first one for young people, [www.entrekulturas](http://www.entrekulturas), and the second for a wider public. Both sites received, in 2008, 47 234 visits;<sup>88</sup>

<sup>88</sup> On this subject, see also Article 7, point B of this report.

(g) The programme *CIGA-nos*, an expression that plays with the words Roma/Gypsies (*ciganos*) and “follow us” (*sigá-nos*), has already been described in this report.<sup>89</sup>

194. On a cultural level, the State played a central role in the dissemination of information aimed at fighting racial prejudice leading to racism and to racial discrimination, as largely referred in this report. An example of occurrences in this area had to do with an event that unduly took a collective dimension on a beach close to Lisbon (Cascais) in the early Summer of 2005, when children of immigrants from Cape Verde were wrongly accused of having, by hundreds, invaded the beach and having stolen the bags and belongings of bathers. It was concluded after all that the complaints were groundless and that those facts, abundantly mentioned by the media, had never occurred. When the exact facts were known, the ACIDI, then ACIME, immediately published a set of notes and a text on the event, corresponding to a phenomenon named “*arrastão*”.

195. The role played by the media, the press, radio and television in the dissemination of human rights issues and of the objectives and principles deriving from international instruments is described in the part of this report devoted to culture. The human rights concerns benefit from citizens’ unanimity, whatever their political orientation may be. A major anti-racist message dissemination tool is the Internet and some important websites in this area are those of ACIDI, at [www.acidi.gov.pt](http://www.acidi.gov.pt) and <http://www.oi.acidi.gov.pt>, and the website of the Office of Documentation and Comparative Law of the Prosecutor General’s Office at [www.gddc.pt](http://www.gddc.pt).

196. It is important to underline, as a good practice, that the Commission for Equality and Against Racial Discrimination (CICDR) provided a public recommendation in April 2006, proposing public authorities to avoid the dissemination of data related to nationality, ethnic origin, religion or immigrant status in their public statements regarding the alleged doers of illegal activities, when those aspects are not an essential part of the news.

197. It has also been proposed to the media, in respect for their editorial independence, that they should avoid those kinds of references when they are not an essential part of the news, by recommending also that they take into account the role and importance given to news that cover the detention of immigrants in irregular situation and the need to respect human dignity in every circumstance.

198. The *communiqué* may be accessed at: <http://www.acidi.gov.pt/docs/CICDR/posicaoCICDRsobreReferenciasNacionalidade.pdf>.

(vii) *The right of access to places or services*

199. As regards the immigrant citizen as a member of an ethnic minority, Law No. 134/99, the Equality Directives and the texts that transpose them (in particular the Labour Code) institute administrative sanctions for every form of discrimination in access to places or services. Those texts have largely been described in the 9<sup>th</sup> and 11<sup>th</sup> reports of Portugal to CICDR debated in March 2001 and August 2004 respectively.<sup>90</sup>

## 2. Information by relevant groups of victims or potential victims of racial discrimination

200. In the case of vulnerable groups and their protection through anti-racist and non-discriminatory measures, the Report to the Consultative Committee of the European

<sup>89</sup> In the context of these activities, but on a more general level, mention should be made of the support by the ACIDI and municipalities to cultural immigrant associations and NGOs.

<sup>90</sup> See also Article 2, Point A, § 2 of this report.

Convention for the Protection of National Minorities, submitted in the Autumn of 2008, provides an accurate description of the situation and measures adopted.<sup>91</sup>

### Surveys and reports

201. We should mention here the Report by the NGO *Númena* that is also a contact point for the former European Monitoring Centre on Racism and Xenophobia: National Annual Report, October 2007, by Bruno Dias, Alexandra Castro, Tiago Farinha, Mónica Ribeiro, Edite Rosário and Elisa Silva.<sup>92</sup>

## Article 6

### 1. Information on legislative, judicial, administrative or other measures which give effect to the provisions of article 6 of the Convention

#### (a) The practice and decisions of courts

202. Beyond the legal texts that are well known to the CERD, case-law references must be updated. In fact, since the presentation of the 11<sup>th</sup> Report of Portugal related to CERD, in August 2004, some new facts arose.

203. Thus, in case No. 322/00.OP5LSB regarding the distribution of racist pamphlets at Praça dos Restauradores, already mentioned in the 11<sup>th</sup> Report of Portugal, it was found out that the accused also possessed publications, weapons and materials that were intended for possible discriminatory use, namely magazines defusing racist ideas which were also connected to National Socialism. The magistrates used article 240 of the Criminal Code (on racial discrimination) in connection with the other crimes committed, such as the detention of a forbidden weapon. Penalties went from 1 to 2 years and were suspended as regards some of the offenders.<sup>93</sup>

204. Another criminal case concluded on 14 February 2006 is related to the ordered murder of a black man in the framework of a local revenge. The person who ordered the crime was punished with a custodial penalty of 19 years; each of the two executors was sentenced to 20 years imprisonment. The facts took place in 2002.<sup>94</sup>

205. Another case is that of a Brazilian transsexual. The motivation behind the crime, committed by very young offenders, is not certain. This was surely a situation of discrimination, although not clearly stated, and in this situation, racial discrimination is not the most evident factor.<sup>95</sup> On the 2<sup>nd</sup> February 2006, a Brazilian homeless transsexual woman with AIDS was tortured and violated with wood sticks by youngsters. She was then thrown to a water hole 15 metres deep and left abandoned. She died in that empty place as she couldn't breathe, because the water covered her face. The perpetrators were arrested and brought to Justice on the same day of the crime. The case was divided into two proceedings, one for the juveniles under 16 who were placed in special centres<sup>96</sup> waiting for

<sup>91</sup> This text is appended to this report.

<sup>92</sup> The text of this report is also appended to the present report.

<sup>93</sup> The decision of the Criminal Court of Lisbon, dated 06 July 2005, became final on 22<sup>nd</sup> September 2005.

<sup>94</sup> The case was tried by the Court of Fundão (North-Centre of Portugal), with number 94/03.7JAGR.D.

<sup>95</sup> Very young offenders gravely maltreated this Brazilian person. Three possible levels of discrimination appear in this case: the condition of Brazilian (*i.e.* foreigner), the situation of severe social exclusion, the fact that the victim was a transsexual.

<sup>96</sup> *Centros de acolhimento*.

a final decision of the Family and Juvenile Court of Porto;<sup>97</sup> the other for the juvenile aged 16 at the time of the facts, in which, following the accusation by the Public Prosecutor, the accused requested the examining stage (*instrução*).<sup>98</sup>

206. A complex situation also occurred in the regional penitentiary near the Criminal Investigation Police in Lisbon. Two wardens addressed racist and violent words against black detainees in the presence of black colleagues, in 2004 (in the last semester of that year) and, in September 2004, in front of a German detainee, delivered a phrase in English approving Hitler and Nazism, a fact that caused deep nausea to the detainee. The prison warden who delivered this terrible sentence was in uniform. The Penitentiary Administration, confronted with the good professional past of those wardens, chose to suspend them from the exercise of their duties, for 180 days in the case of the public servant who committed the most grave infringement (who said the most damaging words) and a fine was imposed to the servant having committed the less grave facts. The Administration also referred the case to Public Prosecution for adoption of the relevant measures.

**(b) Measures**

207. The description of remedies accessible to victims of racism and discrimination has been provided in previous reports to CERD. Portuguese authorities are aware of the need to protect possible victims of racism and racial discrimination.

**(c) Ombudsman**

208. Among tools and methods of complaint, one possibility is the submission of a petition to the Portuguese Ombudsman. This happened once in Portugal when, in a case involving racism, the Ombudsman decided to intervene.<sup>99</sup> It should be reminded that the recommendations of the Ombudsman are directed at the Public Administration, without any binding effect. Normally, in a very high percentage of cases, the Public Administration complies with the Ombudsman's recommendations. Therefore, judicial proceedings benefiting from those recommendations have strong chances of winning and, hence, the Administration generally follows them.

**(d) Types of reparation and satisfaction**

209. Information on the civil means of reparation for an act of racial discrimination has been provided in previous reports. However, it may be convenient to recall that article 483 of the Civil Code on liability in tort contains various general clauses that may justify liability. One of these clauses refers to "others' right", which includes not only credits but also absolute rights such as human rights and, among them, racial discrimination. It is therefore possible to engage the civil liability of somebody committing a discriminatory act and to oblige that person to redress the consequences of the act. On the other hand, article 70 of the Civil Code aims at preventing or stopping every continued discriminatory act (inhibitory actions), representing a valuable means to stop every menacing behaviour or to bring an end to offensive behaviour already shown, and to protect persons from those kinds of actions or threats.

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<sup>97</sup> Case No. 468/06.1TMPRT – custody educative proceedings.

<sup>98</sup> Case No. 324/06.3JAPrt.04.03.

<sup>99</sup> See the Vila Verde case mentioned in the 4<sup>th</sup>, 5<sup>th</sup>, 6<sup>th</sup>, 7<sup>th</sup> and 8<sup>th</sup> Reports of Portugal to CERD.

*(i) Criminal measures*

210. Since the Portuguese latest report, article 240 of the Criminal Code has been amended, as indicated in bold in its transcript of item 4.-A. above.

*(ii) Administrative measures*

211. On 31 December 2007, Parliament approved new legislation on the State's extra-contractual liability. The new Law (No. 68/2007) now applies to the administrative, legislative and jurisdictional functions of the State and other public entities, whereas the revoked law (more than 40 years old) only applied to the administrative function. New concepts like "*faute de service*" are now clearly part of the Portuguese legal order. Following the case-law of Portuguese Courts, the new legal act establishes liability as a consequence of slow judicial decisions or judicial errors. Another innovation was brought by article 15(1), whereby "The State, as well as the autonomous regions, are civilly accountable for unusual damages caused against the citizens' rights or interests legally protected, whenever there are acts at stake which, performed in the course of their legislative-political activity, are not in accordance with the Constitution, the international law, community law or the legislative act with added value" (emphasis added).

**(e) The burden of proof**

212. There is a shared regime regarding the burden of proof, although it does not apply in the administrative procedures mentioned in item 2. A. above.

**Article 7****1. Education and teaching, culture, information****(a) Education and teaching**

213. The teaching system before the exams allowing the conclusion of secondary schooling and for pupils to apply to start a university degree is divided in basic and secondary schooling.

214. Basic schooling is composed of 9 years, while secondary school comprehends the 10<sup>th</sup>, 11<sup>th</sup> and 12<sup>th</sup> grades. The national curriculum of basic schooling<sup>100</sup> contains a core set of essential skills, which is articulated around principles and values deemed necessary to the personal and social quality of life of each citizen. These are:

- (a) The building and the awareness of a personal and social identity;
- (b) The participation in civic life in a solidary, responsible, critical manner;
- (c) The respect and enhancement of the diversity of people and groups as regards their integration goals and options;
- (d) The development of a sense of aesthetic appreciation of the world;
- (e) The development of intellectual curiosity, of taste for knowledge, work and study;
- (f) The building of an environmental consciousness leading to the valorisation and the preservation of the cultural and natural heritage;

<sup>100</sup> See the website of the Ministry of Education: <http://www.dgidec.min-edu.pt>.

(g) The valorisation of the rational dimensions of learning and of the ethical principles that govern the connection with knowledge and with others.

215. In the framework of these principles, at the end of basic schooling, the pupil should be able to:

(a) Mobilise cultural, scientific and technical knowledge in order to understand reality and to solve the situations and problems of daily life;

(b) Use adequately the languages of the different areas, in particular in the cultural, scientific and technical areas, in order to be able to express himself;

(c) Use the Portuguese language adequately in order to communicate and structure his/her personal thought accurately;

(d) Use foreign languages adequately in order to communicate in a correct manner in situations of daily life and to grasp information;

(e) Adopt personal methods of work and learning, as adjusted to the desired aims;

(f) Research, select and organise information in order to turn it into usable knowledge;

(g) Adopt adequate strategies for the solution of problems or when taking decisions;

(h) Execute activities in an autonomous, responsible, creative way;

(i) Cooperate with others in activities and common projects;

(j) Have a harmonious corporal relationship with space, in a personal and interpersonal perspective, promoting health and quality of life.

216. These principles and competences necessarily imply a human rights protection approach: this dimension is directly contained in them and is thus not separable from them.

217. As regards, in particular, the study of History, the profile of a student expected to have competences in the framework of these principles and knowledge is that of a person showing respect for other peoples and cultures.

218. Finally, during basic school, children normally follow civic training courses every year.<sup>101</sup>

219. An important issue that should be addressed is the preparation of school books. Law No. 47/2006 of 28 August 2006 defines the regime of evaluation, certification and adoption of school manuals, as well as of other teaching resources of basic and secondary school, as well as the principles and aims applying to socio-educative support relating to the acquisition of school books. Article 11 of the same law provides that the evaluation commissions of school manuals control their content before their adoption. Paragraph 2 of this article reads as follows:

*“Evaluation commissions take also in account the constitutional principles and values, namely those of non discrimination and gender equality.”*

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<sup>101</sup> See, in this framework, the contest “*a minha escola contra a discriminação*” (my school against discrimination), in which school children made work on their schools and discrimination and received awards for those works. This contest was launched by the ACIDI – see [www.acidi.gov.pt](http://www.acidi.gov.pt).

220. And paragraph 3:

*“The evaluation commissions equally take into account the social and cultural diversity of the environment of the pupils to whom the scholar books are prepared, as well as the plurality of the educational projects of schools.”*

221. In this context, the Government Programme “Portuguese for All” (*Português para Todos*), supported by European funding (QREN/POPH), aims at ensuring immigrants’ access to Portuguese courses. The previous programme in this area was “Portugal Welcomes” (*Portugal Acolhe*) that also provided Portuguese courses to immigrants.

222. The renewal of the programme *Portugal Acolhe* led to the creation of new training referrals, within the European Language Common Referral Framework, for Portuguese as a second language for elementary use (level A2) under the joint supervision of the Ministries of Education and Labour, as well as to the introduction of four training units for Technical Portuguese. These four units cover the following activities: Trade; Hotel and Restaurant Industry; Beauty Care; Civil Construction and Engineering.

223. In the first submission period of the Programme “Portuguese for All”, 376 training actions with 6 824 predicted trainees were approved. By the end of the first semester of 2008, the Programme execution had included 204 courses, with 228 training actions and 3 385 trainees, involving an investment of € 601,461.14.

224. As referred above (item 2.B), the *Entreculturas* Board, enjoying government support, ensures the right to education and training. In its initial period, from 1991 till January 2004,<sup>102</sup> it developed a wide range of activities in order to sensitize schools and other educational stakeholders on the issue of intercultural education, as a means to promote the integration of immigrants’ children and ethnic minorities in schools and to ensure better, equal opportunities for all:

(a) Working guidelines were identified, adopted and published in order to support, justify and mainstream public policies proposals, after a reflection and evaluation of the theoretical framework based upon research-action intervention projects, within national contexts and cross-national partnerships;

(b) Pedagogic and training materials designed in order to change the conceptions, attitudes, behaviours and working methods at school and classroom level and to foster a whole-school intercultural education policy approach were produced and disseminated in order to shape new, more cooperative classroom and school working methods and strategies;

(c) Socio-cultural Mediators, i.e. temporary school workers, were recruited from different communities and contracted by schools in order to promote cultural diversity and to improve and support school-family and school-community connections and to help develop a “new look” on the ethnic and cultural diversity of students.

225. From January 2004 onwards, in its new phase, *Entreculturas* launched new kinds of activities and initiatives, oriented towards a more global intercultural citizenship approach. Within these activities, a trainers network (including 23 trainers) has been created in order to carry out short training initiatives anywhere in the country, on the basis of the teacher in-service training model already adopted and covering four subject areas (Hosting and Welcoming Immigrants; Myths and Facts on Immigration; Nationality and Intercultural Education). In addition, new and diversified materials addressed to different kinds of professionals and public agents of different complexity levels have been produced and

<sup>102</sup> See Article 2, point B, §§ 27 and 28, and Article 7, point B, §§ 5, 6 and 7.

disseminated, as well as examples of good practices (Brochures on: “Intercultural School”; “Intercultural Stories”; “44 Ideas on how to Welcome and celebrate Diversity”; DVDs and a pedagogical guide “Our own Paths”, based upon the TV program *Nós*).

**(b) Culture**

226. The creation of the High Commission for Immigration and Intercultural Dialogue (ACIDI – by Decree-Law No. 167/2007 of 3<sup>rd</sup> May 2007), a public institute that replaced the former High Commission for Immigration and Ethnic Minorities (ACIME), clearly introduced an intercultural dimension to the policy for immigrant integration. This fact shows the institutional commitment of Portugal towards the intercultural dimension of policies for the integration of immigrants and is, therefore, a priority in the working agenda of the ACIDI.

227. This legal framework includes the affirmation of the principle of an intercultural approach, with the underlying paradigm of an equal value of different cultures, of their richness and diversity in dialogue. More than simply respecting and accepting “the other”, it implies an apprenticeship process comprehending an “alterity” dimension in ourselves and transforming us through this encounter. It also supposes a better understanding of the phenomena that produce racism and discrimination and allows the development of a capacity leading to a better, more effective participation in democratic life.

228. The central role played by ACIDI in intercultural dialogue has also been reinforced by its designation as the national coordinating body, during the 2008 celebrations, as regards all activities related to intercultural dialogue.

229. The mentioned Plan for the Integration of Immigrants, which comprehends 122 measures set by 13 ministerial departments, many of them affected by the inclusion of an intercultural dimension in their intervention area, is evidence of the commitment towards an intercultural approach as a strategic, cross-cutting aim across interdepartmental national policies.

230. Among other activities developed by the ACIDI, the following may be regarded as the most significant in the promotion of an intercultural approach:

(a) A trainers’ network has been established in order to promote training activities across the country in different areas (the welcome of immigrants, myths and facts on immigration and intercultural education);

(b) Diversified materials of different complexity levels, aimed at different kinds of professionals and public agents, have been produced and disseminated, as well as examples of good practices.

231. Still in the education and culture area, the Immigration Observatory (*Observatório da Imigração – OI*) is an informal unit created by the ACIDI in 2003 in order to foster networks for academic, scientific and institutional cooperation in the area of immigration. The Immigration Observatory also contributes to a more complete analysis of immigration policies, by monitoring them and providing policy recommendations. One of its priorities is helping deconstruct myths, representations and stereotypes about immigrants or immigration in general that are feared to have been circulating in Portuguese society. In this work, the Observatory seeks to deepen its knowledge of immigrant populations in Portugal, guiding its activities by criteria of accuracy, objectiveness and a permanent search for truth.



232. The studies<sup>103</sup> promoted by the Observatory — published in five different editorial collections — and the academic Journal *Migrações*<sup>104</sup> may be accessed and downloaded freely on its website [www.oi.acidi.gov.pt](http://www.oi.acidi.gov.pt) (which has a section in English).

233. Besides studies, the Portuguese Immigration Observatory promotes conferences (both national and international), seminars and workshops,<sup>105</sup> which stimulate a greater participation of the scientific community. The dissemination of its publications is made by the ACIDI Documentation Centre, which is open to the public.

234. In the field of Human Rights education, the Portuguese Government launched in 1998 a wide campaign that began with the celebration of the 50<sup>th</sup> anniversary of the UDHR<sup>106</sup> and continued until 2004 in the framework of the Human Rights Education Decade of the United Nations. A remnant fund still exists, and the campaign still continues with the translation of the most important texts issued by international organisations, in particular by the United Nations. These texts, once finished, will be available at the website: [www.gddc.pt](http://www.gddc.pt) (<http://www.gddc.pt/direitos-humanos/pubs-brochuras-docs-dh.html>).

(c) **Information**

235. In this area, several examples may be given on the basis of ACIDI's communication activities.

*Leaflets, brochures and other IEC products*

236. ACIDI has a long experience in preparing information materials, answering the needs identified by immigrants and doing so in three languages: Portuguese, English and Russian. Several examples may be given, such as the information Guide “Immigration in Portugal – Useful Information”, with relevant data on issues like the Legal Framework, Nationality, Access to Education, Access to Health, Recognition of Skills and Competences, Legal tools in the fight against racism, among other initiatives equally important for the immigrants' integration process.



Brochure “Nationality”



Brochure “Immigration in Portugal”

<sup>103</sup> Further details in [http://www.acidi.gov.pt/docs/Publicacoes/Getting\\_to\\_know\\_more\\_catalogue.pdf](http://www.acidi.gov.pt/docs/Publicacoes/Getting_to_know_more_catalogue.pdf).

<sup>104</sup> Further details in <http://www.oi.acidi.gov.pt/modules.php?name=Content&pa=showpage&pid=81>.

<sup>105</sup> For further details on those scientific initiatives, please see the ACIDI activities reports available at [http://www.acidi.gov.pt/modules.php?name=Downloads&d\\_op=viewdownload&cid=32](http://www.acidi.gov.pt/modules.php?name=Downloads&d_op=viewdownload&cid=32).

<sup>106</sup> The outdoors of this campaign are at the screen of the website of the Office of Documentation and Comparative Law of the Prosecutor General's Office, at [www.gddc.pt](http://www.gddc.pt).

237. Along with the IEC products, ACIDI has taken part in campaigns on specific themes, including the fight against violence and against discrimination. One of those campaigns was named “Violence is a cycle, you can stop it”, besides a campaign against discrimination led by the Council of Europe.

238. The campaign “Violence is a cycle, you can stop it” was launched in 2008 with the collaboration of relevant figures, either migrant or coming from a migrant background who, by their statements and involvement, joined forces in the fight against violence: José Reis, kickboxing champion; Luís Boa Morte, football player; Ricardo Quaresma, football player; Ruben Amorim, football player; Naide Gomes, athlete; and Claudia Semedo, journalist and actress.



Three posters of the Campaign

239. The second campaign, presented on 9 July 2009, includes the European Campaign “Say No to Discrimination”. ACIDI was invited by the Council of Europe to be a partner in this campaign in Portugal, aimed at sensitizing the public opinion on the importance of condemning the discriminatory or biased acts, especially against Muslims, Jews and Gypsies. It also aims at preparing media professionals on how to work in a more diverse and multicultural Europe, including the support to minority groups as related to media professions.<sup>107</sup>

### III. Conclusions

240. Once again, although with delay, Portugal submits to the CERD a report on the application of this important Convention, thus complying with the new harmonised guidelines and, overall, continuing to engage in a frank dialogue with the Committee.

241. Portugal expresses the wish to be understood in its efforts by the Committee and will search to abide by its conclusions and recommendations once they will be formulated.

<sup>107</sup> Available in <https://wcd.coe.int/ViewDoc.jsp?id=1469725&Site=DC&BackColorInternet=F5CA75&BackColorIntranet=F5CA75&BackColorLogged=A9BACE>.