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

**Fourth Opinion on Portugal  
adopted on 28 June 2019**

**Summary**

The perception that Portuguese society is largely homogeneous and monolingual is still present in Portugal. The authorities nevertheless recognise the cultural, religious, linguistic and ethnic diversity that exists in the country. This includes the presence throughout the country, and for at least five centuries, of a significant number of persons belonging to the Roma communities, and the existence of a numerically-small Mirandese-speaking community in Miranda do Douro and surrounding area.

The Portuguese authorities nonetheless formally maintain their position that Portugal does not have any national minorities and they have not actively brought the Framework Convention for the Protection of National Minorities to the attention of persons belonging to groups possibly interested in the protection that the Framework Convention offers. In consequence, there is a persistent lack of awareness about the Framework Convention in Portugal, including among persons and groups who could potentially benefit from its provisions.

Since the adoption of third cycle opinion on 4 December 2014, the Portuguese authorities have further developed and adjusted their policies so as to improve the living conditions of the Roma communities, as well as improved their coordination and enhanced their cooperation with the latter. Further, they have amended and expanded the anti-discrimination legal framework.

Nevertheless, many persons belonging to the Roma communities continue to be subjected to direct and indirect discrimination and continue to live on the margins of society, in at times very poor housing conditions, with a lower life expectancy than the rest of the population, with a lower school enrolment and educational performance, in particular for Roma girls, as well as with a high level of unemployment.

The Portuguese authorities fully acknowledge this situation and continue to demonstrate their readiness to reconsider legislation and policy instruments to better reach persons belonging to the Roma communities to further advance the integration of society.

Unfortunately, in some policy fields, further improvement may be impeded by the lack of reliable quantitative and qualitative data, by the absence of an earmarked budget for line ministries, by relying too heavily on a project-based approach which may negatively affect sustainability of actions taken, and by a scattered field of anti-discrimination complaints bodies. The lack of knowledge about Romani culture, language and history among the majority population generates prejudice and negative stereotypes.

**Recommendations for immediate action**

- resolutely address and combat direct and indirect discrimination faced by persons belonging to the Roma communities by stepping up efforts to raise their awareness of legislative standards and of existing human rights and equality bodies, as well as of various mechanisms for filing complaints and remedies available to victims of discrimination, hatred and racism;
- endow the sectorial anti-discrimination complaints bodies, as well as the Ombudsperson, with proper investigative powers and the power to impose sanctions; effectively monitor cases of discrimination, hatred and racism; shorten and simplify complaint procedures; and provide timely follow-up and feedback to complainants on the status of and response to their complaint;
- implement as soon as possible national and local plans to develop affordable and adequate housing conditions for vulnerable Roma communities; rehouse as a priority those Roma families and individuals still living in substandard housing conditions;
- extend the Intercultural Municipal Mediators Programme to more municipalities, whilst ensuring Roma mediators' independence from undue interference, as well as regulating the professional status of the socio-cultural mediators, promoting and securing certified training and employability of Roma mediators, in particular women, and ensuring the programme's sustainability through adequate state support.

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## I. Key findings

### Monitoring process

1. This fourth cycle Opinion on the implementation of the Framework Convention by Portugal was adopted in accordance with Article 26(1) of the Framework Convention and Rule 23 of Resolution(97)10 of the Committee of Ministers. The findings are based on information contained in the fourth State Report<sup>1</sup> and other written sources and information obtained by the Advisory Committee from governmental and non-governmental sources, including during its visit to Porto, Figueira da Foz, Torres Vedras, Moura and Lisbon, from 28 to 31 May 2019.

2. The Advisory Committee welcomes the authorities' co-operative approach during the preparation of this opinion and appreciates the excellent assistance provided before, during and after the visit. The fourth State Report, due on 1 September 2018, was submitted on 8 October 2018 and responds to most of the Advisory Committee's previous recommendations, as well as containing additional information concerning the main issues raised in the third monitoring cycle. A consultation meeting with NGOs was organised by the Portuguese National Human Rights Commission (PNHCR)<sup>2</sup> in September 2018, where recommendations and suggestions were collected to be incorporated in the fourth State Report.

3. For the first time since the Framework Convention entered into force in Portugal on 1 September 2002, the Advisory Committee was invited for a visit to Portugal. The visit enabled the Advisory Committee to gain a more detailed and therefore more nuanced impression of the Portuguese efforts to implement the Framework Convention directly from central and local authorities, from members of the Roma communities and non-governmental organisations, as well as from representatives of Mirandese-speakers.

4. The Advisory Committee looks forward to continuing its dialogue with the authorities, as well as with others involved in the implementation of the Framework Convention. In order to promote an inclusive and transparent process, the Advisory Committee strongly encourages the authorities to make the present opinion public upon its receipt. It also invites the authorities to translate the present opinion and the forthcoming Committee of Ministers' Resolution into Portuguese, and to disseminate it widely among all relevant actors. The Advisory Committee considers that a follow-up meeting in Portugal to discuss and review the observations and recommendations made in the current opinion, as announced in the State Report would be particularly beneficial to all. The Advisory Committee welcomes the proposal made by the Portuguese authorities during the visit to organise information events on the Framework Convention in the near future which could be combined with the above follow-up event.

### General overview of the present situation

5. While continuing to promote the integration of society, Portugal maintains its position that there are no national minorities in the country. However, it continues to apply the Framework Convention on an *ad hoc* basis to persons belonging to the Roma communities.<sup>3</sup>

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<sup>1</sup> Available in [English](#).

<sup>2</sup> The PNHCR is an inter-ministerial coordination body in charge of the coordination between various ministries in order to define the national position in international human rights bodies and also to uphold the compliance of obligations arising from international instruments. Resolution 27/2010 that created the PNHCR provides for the participation of civil society representatives who should ask to become part of PNHCR's mailing list, thus receiving invitations to open meetings where the drafts of national reports are discussed before being sent to international human rights organisations.

<sup>3</sup> Roma in Portugal are called *ciganos* (Gypsies), a term widely used both by persons belonging to the Roma communities and the authorities. The Advisory Committee understands that this term is not considered as pejorative and its use is therefore acceptable in the Portuguese context. In the present Opinion, however, the word "Roma" will be used in line with the Council of Europe Descriptive Glossary of Roma and Travellers related terminology and, in the Opinion, refers to Portuguese citizens of Roma ethnic affiliation. The term "non-Portuguese Roma" is used when the

6. Overall, the legal framework has considerably improved since the third monitoring cycle with the adoption of a new Anti-Discrimination Law no. 93/2017 which entered into force on 1 September 2017 and amendments to Articles 132, 145 and 240 of the Criminal Code.

7. Several changes have also been introduced in the institutional framework. Through Resolution no. 154/2018 of the Council of Ministers, adopted on 28 November 2018, the National Roma Communities Integration Strategy 2013-2020 (ENICC) (hereafter the “Roma Integration Strategy”) has been extended until 2022 and the composition and functioning of the Consultative Council for the Integration of Roma Communities (CONCIG) (hereafter the “Consultative Council”)<sup>4</sup>, coordinated by the High Commission for Migration (ACM) and acting as an inter-ministerial commission in charge of monitoring the implementation of the Roma Integration Strategy, have been reviewed. The Consultative Council now includes permanent and non-permanent members. Furthermore, the number of representatives of Roma associations has been doubled (eight instead of four) and are no longer designated by the High Commission for Migration but elected by Roma associations themselves.

8. Whilst the Advisory Committee welcomes these developments, problems persist in the concrete impact of existing legislation and policies on the day-to-day living conditions for persons belonging to the Roma communities, including their protection against discrimination.

9. In the following part of the opinion, a number of articles of the Framework Convention are not addressed. Based on the information currently at its disposal, the Advisory Committee considers that the implementation of these articles does not give rise to any specific observations. This statement is not to be understood as signalling that adequate measures have now been taken and that efforts in this respect may be diminished or even halted. Rather, the Advisory Committee considers that the obligations of the Framework Convention require a sustained effort by the authorities. Furthermore, a certain state of affairs which may be considered acceptable at this stage may not necessarily be so in further cycles of monitoring. Finally, it may be that issues which appear at this stage to be of relatively minor concern prove over time to have been underestimated.

### **Assessment of measures taken to implement the recommendations for immediate action**

10. The legal framework concerning complaints about discrimination has been revised. The new Anti-Discrimination law<sup>5</sup> introduces new grounds of discrimination (discrimination based on ancestry and place of origin and discrimination by association), as well as the concept of multiple discrimination. Furthermore, the law reinforces the role of the Commission for Equality and Against Racial Discrimination (CICDR)<sup>6</sup> as the central anti-discrimination complaints body and the High Commission for Migration as its coordinating body. Also, since the legislative change, it is possible to launch a mediation procedure “with the consent of the offender and of the victim or of his or her legal representatives”. In addition, the new law allows for the possibility of migrant and Roma associations to act in representation of the victim.

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text refers to citizens of other nationalities of Roma ethnic affiliation. In Portugal, policy documents, such as the National Roma Communities Integration Strategy, or institutions, such as the Observatory of Roma Communities, use the plural “communities” to stress the diversity among Roma; the wording in the Opinion reflects this practice.

<sup>4</sup> The CONCIG was created in 2013 as an advisory group to monitor the implementation of the Roma Integration Strategy and to assess the socio-economic situation of Roma communities. See <http://www.acm.gov.pt/-/grupo-consultivo-para-a-integracao-das-comunidades-ciganas>.

<sup>5</sup> The full text of Law no. 93/2017, which entered in force on 1 September 2017, is available at <https://dre.pt/application/file/a/108039214> (in Portuguese).

<sup>6</sup> The Commission for Equality and Against Racial Discrimination was established by Law No. 134/99, on 28 August 1999. See paragraph 34 for a description of its new tasks. Further information is also available at [www.cicdr.pt](http://www.cicdr.pt) (in Portuguese).

11. However, the existence of various parallel complaints mechanisms makes the complaint system complex and confusing and the modest fines imposed may render the system insufficiently deterrent. Furthermore, the lack of confidence in and slowness of the complaints system are limiting factors.

### **Assessment of measures taken to implement the further recommendations**

12. A growing number of municipalities have developed local Roma action plans and financial means for both their implementation and for supporting Roma associations' projects have increased. Furthermore, the participation of Roma representatives in consultative structures at national and local levels has improved. Also, some progress has been achieved in the school enrolment of Roma children at all educational levels, thanks to Roma mediators, the granting of scholarships, as well as tailored educational programmes (e.g. Choices and OPRE). In addition, nation-wide and Roma-specific studies were conducted which provided authorities with relevant data, in particular in the field of housing and education.

13. On a few occasions, school administrations still decide to open special classes for Roma children, which would lead to an intervention by the authorities. At the same time, in certain areas the concentration of persons belonging to Roma communities is such that certain school classes largely or completely consist of Roma children. Early "marriages"<sup>7</sup> seem to be a significant reason for school dropout, in particular in rural areas. The lack of recent in-depth studies on this issue makes it difficult to obtain a clear picture as to their prevalence.

## **II. Article-by-article findings**

### **Article 3 of the Framework Convention**

#### **Personal scope of application**

14. The application of the Framework Convention for the Protection of National Minorities by Portugal continues to be restricted. In their fourth State Report, the Portuguese authorities recalled their position that there is no formal recognition of persons belonging to national minorities in Portugal. They acknowledge, however, the existence of an ethnic minority in the country, namely persons belonging to the Roma communities, and they apply the Framework Convention *de facto* to persons belonging to these communities. It is the understanding of the Advisory Committee that no distinction is made between Portuguese Roma and non-Portuguese Roma residing in Portugal: both the work of the High Commission for Migration and the Roma Integration Strategy apply to citizens and non-citizens, although no targeted measures have been designed for non-Portuguese Roma. The Advisory Committee also notes with interest that the State Report provides information about Mirandese-speakers.<sup>8</sup>

15. The Advisory Committee has not been made aware of persons belonging to any other groups who might have expressed their wish to benefit from the provisions of the Framework Convention. At the same time, the Portuguese authorities still have not made dedicated efforts to spread and increase knowledge about the Framework Convention and its objectives. As a consequence, even amongst communities that could possibly benefit from its protection, there is little awareness about the Framework Convention.

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<sup>7</sup> The term "marriages" - commonly used to describe the practice according to which Roma families agree to formalize the unofficial [i.e. legally unregistered] union between their children as husband and wife and agree to their living as a couple outside the girl's family home - should however be understood as "unions", in particular when there is not official record of the marriage, in line with the position expressed by CAHROM thematic group' experts (page 12, CAHROM(2015)8 Thematic report on early and forced marriages in Roma communities: <https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680651475&format=native>).

<sup>8</sup> See fourth State Report, ps.19-20.

16. An exception is Mirandese speakers, who in 2004 decided not to ask for application of the Framework Convention on their community, in the understanding that the recognition of the Mirandese language<sup>9</sup> under the terms of the European Charter for Regional or Minority Languages (ECRML) would be a better option to protect the Mirandese language. According to a representative of the Association of Mirandese Language and Culture met during the visit, the Mirandese speakers still hold this view and would like Portugal to sign and ratify the ECRML. The Advisory Committee recalls however that linguistic rights are also protected under the Framework Convention.

17. The Advisory Committee recalls that the linguistic rights of persons speaking Mirandese are protected by Law No. 7/99 from 29 January 1999 on Official Recognition of Linguistic Rights of the Mirandese Community and notes that various measures have been taken to preserve the language.<sup>10</sup> According to the Advisory Committee's interlocutors, the continuous attention of the authorities is required to ensure the preservation of the Mirandese language, including by ensuring a sufficient number of skilled teachers and access to teacher training and teaching materials.

18. At the same time, from its exchanges with the Portuguese authorities during the visit, the Advisory Committee learned that there is a willingness to reconsider the longstanding approach to the application of the Framework Convention in Portugal and that the authorities may be willing to more actively disseminate information about the Framework Convention to persons belonging to groups that could be interested in the protection it offers.

#### *Recommendations*

19. The Advisory Committee strongly encourages the authorities to pursue an inclusive approach in relation to persons belonging to groups who might seek protection under the Framework Convention and recommends that they effectively address the limited awareness about its specific provisions and protection it offers, including via the dissemination of information on the Framework Convention and the organisation of thematic meetings and seminars.

20. The Advisory Committee reiterates its call to Portuguese authorities to continue to pay due attention to the preservation and development of the Mirandese language and to sign and ratify the European Charter for Regional or Minority Languages.

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<sup>9</sup> According to linguists (see Languages of the World at <https://www.ethnologue.com/language/mwl> and Omniglot at <https://www.omniglot.com/writing/mirandese.htm>), the Mirandese language is a Romance language closely related to Asturian spoken in northern Portugal by about 15 000 people (10 000 use it regularly). Mirandese began to emerge as a distinct language during the 12th century, and Mirandese literature first appeared during the second half of the 19th century.

<sup>10</sup> Such measures include the possibility of learning Mirandese in the public schools of Miranda do Douro and Sendim as a second official language, the development of an official teachers' qualification and linguistic skills certification following the signing of a Protocol between the Ministry of Education, the University of Coimbra, the City Council of Miranda do Douro and the local schools cluster on 25 September 2017 and different activities undertaken by the Ministry of Culture aimed at preserving, studying and disseminating the Mirandese language and promoting it as an integral part of the Intangible Cultural Heritage of Portugal.

### Data collection and population census

21. The Portuguese Constitution in Article 41 (3)<sup>11</sup> prohibits asking citizens about their religion.<sup>12</sup> From the application of this provision, a commonly accepted interpretation is that the Portuguese Constitution prohibits enquiries about ethnicity, although several interlocutors of the Advisory Committee considered that this interpretation is incorrect. Nevertheless, some data on ethnic affiliation are available at municipal level.<sup>13</sup>

22. As regards the Roma communities, policy makers must rely on data made available through *ad hoc* research and studies, such as the 2014 National Study on Roma communities,<sup>14</sup> the 2016 National Study on Roma Communities,<sup>15</sup> the 2016 IHRU Study on the Characterisation of the Housing Conditions of Roma Communities Residing in Portugal.<sup>16</sup> Resulting from the above studies, the estimated number of Portuguese Roma varies from 24 000 to 40 000 persons. However, the estimate of 45 000 - 50 000 mentioned in the State Report<sup>17</sup> as well as by several interlocutors, remains a more realistic figure because “invisible” Roma families who are not in contact with public institutions on the one hand and the estimated 4 200 Portuguese Roma without a fixed residence on the other hand, are not necessarily covered by the above studies. The Advisory Committee was informed that the number of non-Portuguese Roma present in Portugal is unknown as no such information is collected.<sup>18</sup>

<sup>11</sup> Article 41(3) of the Portuguese Constitution reads as follows: “No authority may question anyone in relation to his convictions or religious observance, save in order to gather statistical data that cannot be individually identified, nor may anyone be prejudiced in any way for refusing to answer”. For the full text of the 1976 Portuguese Constitution with seven revisions, see: <http://www.tribunalconstitucional.pt/tc/conteudo/files/constituicaoingles.pdf>.

<sup>12</sup> Giving this information in the census, however, is optional.

<sup>13</sup> Article 35 (3) of the Constitution in conjunction with Law no. 67/98 from 26 October 1998 on the Protection of Personal Data, allow for the compilation of statistical data on the “racial and ethnic demographic composition” of the Portuguese population.

<sup>14</sup> Mendes, Magano & Candeias, 2014. This Roma-specific study was concluded by the end of 2014 and was based on a sample of 24 210 Roma individuals contacted by the researchers. Contributions were received from 149 municipalities of continental Portugal. The study is available in Portuguese at: <https://www.obcig.acm.gov.pt/documents/58622/201011/estudonacionalsobreascomunidadesciganas.pdf/89b05f10-9d1f-447b-af72-dac9419df91b>.

<sup>15</sup> Sousa & Moreira, 2016. This second Roma-specific study conducted by the Observatory of Roma Communities (OBCIG), an integrated research unit of the High Commission for Migration, completes the 2014 study and provides a mapping of Roma communities living in Portugal based on data collected from all 308 municipalities (100% of municipalities of continental Portugal, as well as the 30 municipalities in the autonomous regions of Madeira and Azores). From that study, OBCIG identified 37 089 Portuguese Roma men and women living in Portugal and concluded that the Portuguese Roma population represents approximately 0.4% of the total population (compared to 10 401 063 population). For an analysis of the results of this 2017 study with statistics and a mapping of Roma communities per municipality, see pages 35-40 of *ACM em revista no.5* from January 2017 distributed during the visit and available online at [https://issuu.com/acmemrevista/docs/acm\\_emrevista\\_5\\_digital](https://issuu.com/acmemrevista/docs/acm_emrevista_5_digital).

<sup>16</sup> The 2016 Roma-specific Study on the Characterisation of the Housing Conditions of Roma Communities Residing in Portugal was conducted by the Institute for Housing and Urban Rehabilitation (IHRU). It is based on data collected from all 308 municipalities (100% of municipalities of continental Portugal, as well as the 30 municipalities in the autonomous regions of Madeira and Azores). However, in the case of the municipalities of Almada, Cascais, Loures, Porto and Setúbal, the figures are based on estimates since information was not collected by the respective municipalities. From the data obtained through this survey, there are at least 7,696 Roma families living in Portugal, consisting of 30 737 individuals and distributed in 7 456 housing spaces (or 9,418 Roma families, 37 346 individuals and 9 155 housing spaces if estimated numbers from the five above municipalities are included), i.e. 0.35% of the total population living in Portugal. The Study is available here: [http://www.portaldahabitacao.pt/opencms/export/sites/portugal/portal/publicacoes/documentos/caraterizacao\\_condicoes\\_habitacao.pdf](http://www.portaldahabitacao.pt/opencms/export/sites/portugal/portal/publicacoes/documentos/caraterizacao_condicoes_habitacao.pdf).

<sup>17</sup> The fourth State Report refers to an estimate between 40 000 and 60 000, whilst the updated Roma Integration Strategy published on 29 November 2018 takes the results of the 2016 OBCIG National Study on Roma Communities as reference, quoting an estimated number of 37 000 Portuguese Roma.

<sup>18</sup> The Advisory Committee was informed by a Roma mediator in Porto about the local presence of non-Portuguese Roma from North Macedonia and Romania. The Senior Protection Assistant of UNHCR Portugal and the representative of the Portuguese Council for Refugees (CPR) were unable to provide any data or statistics concerning possible persons belonging to the Roma communities among refugees and asylum seekers in Portugal.



23. For the 2021 population census, the Portuguese authorities had been looking into the desirability and feasibility of including a question on the “ethnic-racial” self-identification of the respondent. The Working Group which was set up to this end in February 2018, chaired by the High Commissioner for Migration, was divided as to the desirability of the inclusion of such a question.<sup>19</sup> On 19 June 2019, the Advisory Committee learned that the Portuguese National Institute of Statistics (INE) decided not to include a question on “ethnic-racial” self-identification in the 2021 census.<sup>20</sup> Instead, the Institute will carry out research into discrimination and inequality in Portugal, most probably in the second half of 2021.<sup>21</sup>

24. The Advisory Committee would have welcomed the inclusion of a question in the 2021 population census on ethnic affiliation, under the condition that basic safeguards were respected,<sup>22</sup> since it would have provided additional data on the ethnic composition of the population in Portugal. It would also have given visibility to these groups and would have been an opportunity to obtain more reliable information to support the design and monitoring of specific policies. The Advisory Committee underlines that an optional question on religious affiliation has existed in the census for several decades and that an optional question could also have been introduced on ethnic affiliation.

25. The Advisory Committee has not been made aware of discussion on the introduction of a question on language (such as “mother tongue”, main language, first language) in the coming census, thus preventing this census from demonstrating the potential linguistic diversity in Portugal.

#### *Recommendations*

26. The Advisory Committee further encourages the authorities to continue to ensure that quantitative and qualitative data, disaggregated by ethnic affiliation, sex, age, and geographical distribution, is made available through independent research for the design and periodical assessment of targeted policies and measures aimed at the promotion of effective equality, especially of persons belonging to the Roma communities.

27. The Advisory Committee invites authorities to commission independent research on non-Portuguese Roma residing in Portugal, in close cooperation with Roma mediators where possible, so as to design targeted measures addressing their specific needs.

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<sup>19</sup> See interview with Carlos Miguel, State Secretary for Local, who was in favour of introducing such a question in the census published in Público on 9 April 2019: “*Secretário de Estado recomenda “vivamente” que censos tenha pergunta sobre origem étnico-racial*”. The proposal discussed in the working group was based on four group categories: “White” (branco), “Black” (negro), “Asiatic” (asiático), “Roma” (cigano). According to the abovementioned article, nine members of the Working Group were in favour, four were against (including two persons representing the Roma communities) and one abstained. The article is available in Portuguese: <https://www.publico.pt/2019/04/09/sociedade/noticia/secretario-estado-recomenda-vivamente-censos-pergunta-cigano-negro-asiatico-branco-1868467>. This divergence of views among representatives of the Roma communities was also noted by the Advisory Committee during its visit. Several of them expressed fear that in the current political climate in Europe with the rise of populism and the growing presence of extreme right movements, information about their ethnic identity would risk being used against them. Others, whilst they would be prepared to self-identify as Roma through the census, indicated that they were unclear about the purpose of introducing such a question.

<sup>20</sup> The reasons which were communicated by the National Institute of Statistics to support this decision included: the complexity of the issue; the concern that the institutionalisation of categories could legitimise the arbitrary classification of persons; uncertainty about the reliability of results if the question on “ethnic-racial” self-affiliation were optional; the concern that if the census does not collect data on household income as well as ethnicity, it could be difficult to detect and demonstrate a pattern of discrimination.

<sup>21</sup> *INE chumba pergunta sobre origem étnico-racial no censos*, Público, 17 June 2019.

<sup>22</sup> Principles of confidentiality, voluntary self-identification - as protected in Article 3 of the Framework Convention, and free and informed consent (see [Thematic Commentary No.4](#) para.9); see also ECtHR Grand Chamber judgement in the case of Molla Sali v. Greece [no. 20452/14](#); and UNECE recommendations, in particular pages 149-150, para. 701-712 of the Conference of European Statisticians Recommendation for the 2020 Censuses of Population and Housing”, United Nations Economic Commission for Europe, New York and Geneva, 2015: [https://www.unece.org/fileadmin/DAM/stats/publications/2015/ECES41\\_EN.pdf](https://www.unece.org/fileadmin/DAM/stats/publications/2015/ECES41_EN.pdf).

## Article 4 of the Framework Convention

### Anti-discrimination legal framework

28. Since the Advisory Committee's third cycle Opinion on Portugal, significant changes in the legal framework against racism and discrimination have been made: the amended Articles 132, 145 and 240 of the Criminal Code<sup>23</sup> entered into force on 21 November 2017 and a new Anti-Discrimination Law<sup>24</sup> became operational on 1 September 2017.<sup>25</sup>

29. The Advisory Committee notes that the European Commission against Racism and Intolerance (ECRI) has positively assessed the anti-discrimination legal framework whilst observing that it is not fully in conformity with its General Policy Recommendation No.7 (revised) on national legislation to combat racism and racial discrimination.<sup>26</sup>

### Recommendation

30. The Advisory Committee encourages the Portuguese authorities to bring their criminal legislation into line with ECRI standards.

### Institutional framework

31. In Portugal, several public institutions have responsibilities for anti-discrimination and are entitled to receive complaints based on discrimination on various grounds<sup>27</sup> following the remit of their mandate. These institutions include the Commission for Equality and Combating Racial Discrimination (CICDR), the main administrative anti-discrimination complaints body<sup>28</sup> set up under the High Commission for Migration (ACM), the Ombudsperson,<sup>29</sup> the Public Prosecutor<sup>30</sup> and several sectorial bodies, such as the Inspectorate General of Home Affairs (IGAI),<sup>31</sup> the Commission for Citizenship and

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<sup>23</sup> Law no. 94/2017, published in the Official Journal on 23 August 2017, and entered in force on 21 November 2017.

<sup>24</sup> See footnote no. 5.

<sup>25</sup> For an extensive description and assessment of the legal framework currently in place, see the fifth monitoring cycle Report on Portugal by the European Commission against Racism and Intolerance (ECRI), published on 2 October 2018; p. 13-16, <https://rm.coe.int/fifth-report-on-portugal/16808de7da>.

<sup>26</sup> ECRI General Policy Recommendation N°7 (revised) on national legislation to combat racism and racial discrimination - adopted on 13 December 2002 and revised on 7 December 2017.

<sup>27</sup> Article 13(1) of the Portuguese Constitution reads: "All citizens possess the same social dignity and are equal before the law"; Article 13(2) states: "No one may be privileged, favoured, prejudiced, deprived of any right or exempted from any duty for reasons of ancestry, sex, race, language, territory of origin, religion, political or ideological beliefs, education, economic situation, social circumstances or sexual orientation." In addition to the prohibition of any forms of discrimination based on racial and ethnic origin, skin colour and nationality, new forms of discrimination are for the first time included in the Anti-Discrimination Law n. 93/2017, such as discrimination based on ancestry and territory of origin, multiple discrimination and discrimination by association ("based on relation and/or association to a person or group of persons" possessing criteria under protection).

<sup>28</sup> According to Law no. 93/2017, if a complaint relates to discrimination, the Ombudsperson and all sectorial public institutions referred to in paragraph 31 must forward it to the Commission for Equality and Combating Racial Discrimination for administrative procedure and analysis.

<sup>29</sup> The Portuguese Ombudsperson is entitled to receive any complaints which may affect any fundamental rights as foreseen by the Portuguese Constitution. If a complaint relates to racial discrimination, it must be forwarded to the Commission for Equality and Combating Racial Discrimination to be analysed within its purposes under the Law no. 93/2017.

<sup>30</sup> The Public Prosecutor has powers to prosecute criminal cases.

<sup>31</sup> The IGAI was created by Decree-Law no. 227/95. The IGAI works directly under the authority of the Ministry of Home Affairs (MAI) and its control includes all security forces and services that depend upon this Ministry, therefore excluding military forces. It is responsible for, *inter alia*, investigating all instances of serious violations of the fundamental rights of the citizens by the security forces and services or by their elements that come to its knowledge; it performs inquiries, audits and expertise work, and initiates or collaborates in the opening of proceedings in the scope of those services, whenever its collaboration is required and authorised by a superior authority; it communicates the facts of a relevant criminal nature to the competent authorities which investigate criminal behaviour, and collaborates with them to obtain pertinent evidence, whenever asked to.

Gender Equality (CIG),<sup>32</sup> the Regulatory Authority for the Media (ERC),<sup>33</sup> the National Council for the Prevention and for Combating Violence in Sports (CNVD),<sup>34</sup> and the Working Conditions Authority (ACT).<sup>35</sup>

32. The High Commission for Migration has operated under this name since 2014.<sup>36</sup> Its mandate is much broader than migration issues as its mission is “to collaborate in the determining, executing and assessing the public, transversal and sectorial policies concerning migrations<sup>37</sup> that are relevant for the integration of migrants in the national, international and Portuguese-speaking contexts, for the integration of the immigrants and ethnic groups – in particular Roma communities – and for managing and valuing of the diversity between cultures, ethnicities and religions”.<sup>38</sup> The High Commission for Migration includes under its structure a dedicated Support Unit to Roma Communities (NACI), which is *inter alia* responsible for supervising the implementation of local action plans of the Roma Integration Strategy, as well as three advisory bodies, among which the Commission for Equality and Against Racial Discrimination.<sup>39</sup>

33. It is clear, however, that the name “High Commission for Migration” does not sufficiently reflect the full scope of work of this institution and, more importantly, creates unnecessary confusion, not only among persons belonging to the Roma communities who, on several occasions during the visit, underlined that they were not migrants but citizens, but also among persons belonging to other groups.<sup>40</sup> The Advisory Committee took note that the authorities are conscious about the misunderstanding the current name causes and was informed that a name change is being considered.

34. The 2017 Anti-Discrimination Law considerably reinforces the role of the Commission for Equality and Against Racial Discrimination, including by making it responsible for all phases of the administrative complaint procedure, from investigation to the imposition of sanctions, including fines.<sup>41</sup> Furthermore, the 2017 Anti-Discrimination Law allows migrant and Roma associations to represent a complainant in the procedure. Also, with the consent of the offender and of the victim or of his or her legal representatives the Law makes a mediation procedure through the Commission possible.

35. ECRI in its 2018 report on Portugal recommended that the Portuguese authorities make the Commission for Equality and Against Racial Discrimination entirely independent, in line with its General Policy Recommendation No. 2 on Equality Bodies.<sup>42</sup> The ECRI recommendation tallies with the findings of the Advisory Committee since several of its interlocutors expressed concern as to the incorporation of the Commission for Equality and Against Racial Discrimination in the structures of the High Commission for Migration, leading to concerns about its independence.

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<sup>32</sup> The CIG is only responsible for handling cases based on gender and sexual orientation.

<sup>33</sup> The ERC is responsible for media regulation according to Law no. 53/2005, from 8 November 2005, as amended.

<sup>34</sup> Formerly known as Institute for Youth and Sports, the CNVD deals with violence in sports.

<sup>35</sup> It deals with cases related to access to the labour market according to Law no. 7/2009, from 12 February 2009.

<sup>36</sup> For information about predecessor bodies, see fourth State Report, p.4, or see [www.acm.gov.pt](http://www.acm.gov.pt).

<sup>37</sup> The ACM is responsible for the Third Migration Strategic Plan 2015-2020: [http://www.acm.gov.pt/documents/10181/222357/PEM\\_ACM\\_final.pdf/9ffb3799-7389-4820-83ba-6dcfe22c13fb](http://www.acm.gov.pt/documents/10181/222357/PEM_ACM_final.pdf/9ffb3799-7389-4820-83ba-6dcfe22c13fb).

<sup>38</sup> Article 3 of Decree-Law 31/2014 from 27 February 2014.

<sup>39</sup> The two other advisory bodies under the High Commission for Migration are the Council for Migrations which mandate includes consultation, advice, support and participation in the definition of broad lines of action and the implementation of migration policies (<https://www.acm.gov.pt/-/conselho-para-as-migracoes-cm->), and the Consultative Group for the Integration of Roma communities which mandate is described under Article 15.

<sup>40</sup> During the exchange with authorities, it was underlined that second-generation migrants and persons belonging to the Jewish community had raised similar concerns.

<sup>41</sup> According to information submitted by the authorities, fines are based on the Social Benefit Index. In 2018 they ranged from 421.32EUR to 4 213.20EUR for an individual and from 1 685.28EUR to 8 426.40EUR for a group of persons.

<sup>42</sup> ECRI General Policy Recommendation N°2 revised on Equality Bodies to combat racism and intolerance at national level - adopted on 13 June 1997 and revised on 7 December 2017.

36. The Portuguese Ombudsperson,<sup>43</sup> acting as the National Human Rights Institution, is mandated to receive complaints of natural or legal persons who feel harmed by allegedly unfair or illegal action by the public administration or consider that their fundamental rights have been violated by these institutions. The Ombudsperson has been accredited an A status by the Global Alliance of Human Rights Institutions as being fully compliant with the Paris Principles.<sup>44</sup> Nevertheless, reportedly the Ombudsperson lacks resources to reach out to the Roma communities to facilitate their reporting of unfair or illegal actions by public authorities, and to act upon such complaints.

37. The Regulatory Authority for the Media (ERC) was established in 2006 by Law 53/2005. Amongst its tasks are the promotion of diversity (“cultural pluralism”) and the “protection of fundamental rights”.<sup>45</sup> Though the scope of its activities covers all media activities under the jurisdiction of the Portuguese State,<sup>46</sup> this Authority actively monitors the national wide public and private audio-visual media. However, it lacks the necessary resources to monitor regional and local audio-visual media. As to print media, no active monitoring takes place, but complaints are accepted by the Authority. Social media is within the mandate of the Regulatory Authority for the Media if the website or other exchange platform is operating under the responsibility of an enterprise within this Authority’s mandate.

### *Recommendations*

38. The Advisory Committee calls on the authorities to increase the financial and human resources of the Ombudsperson’s office, especially for its outreach at grassroots level.

39. The Advisory Committee recommends that the Portuguese authorities bring the Commission for Equality and Against Racial Discrimination into line with ECRI standards by assuring the independence of the institution and regularly evaluate the proper functioning of the Commission.

40. The Advisory Committee invites the authorities to amend the name of “High Commission for Migration” so that it better reflects its mandate, and to consider increasing human and financial resources allocated to the High Commission for Migration to effectively fulfil its mandate, in particular to the Support Unit for Roma Communities.

### **Equality data and measures to promote full and effective equality**

41. The Commission for Equality and Against Racial Discrimination may receive directly or through sectorial complaints bodies<sup>47</sup> allegations of discrimination. From the total of 346 complaints received in 2018 by the Commission, 74 referred to “Roma ethnicity” as being the ground of discrimination (21.4%).<sup>48</sup> In 2018 a total of seven decisions were issued following complaints to the Commission.<sup>49</sup> One of the seven

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<sup>43</sup> The Ombudsperson is a State body protected by the Constitution (in Article 23), and its statute is defined in the Law No. 9/91 from 9 April 1991. The Ombudsperson is elected by the Parliament with a qualified majority of its members for four years, with the possibility of being re-elected once for the same period. The main function of the Ombudsperson is the defence and the protection of the fundamental rights and freedom and the citizens’ legitimate interests, ensuring the justice and the legality of the exercise of public powers.

<sup>44</sup> Principles relating to the Status of National Institutions (The Paris Principles) adopted by General Assembly resolution 48/134 of 20 December 1993:

<https://www.ohchr.org/EN/ProfessionalInterest/Pages/StatusOfNationalInstitutions.aspx>.

<sup>45</sup> Article 7 of Law 53/2005.

<sup>46</sup> Article 6 of Law 53/2005.

<sup>47</sup> Article 17 of the Anti-Discrimination Law obliges sectorial anti-discrimination complaints bodies, except for the Working Conditions Authority, to forward allegations of acts of discrimination to the Commission for Equality and Against Racial Discrimination.

<sup>48</sup> An analysis of the complaints carried out by the High Commission for Migration shows that most complaints concern direct discrimination: the most frequent situations relate to the refusal to supply goods and services or disregarding treatment on providing such good and services. There is, however, a significant number of discrimination cases in the form of harassment, occurring mainly online and in shops.

<sup>49</sup> Fines were applied in three cases and in one of those cases an admonition was delivered.

cases related to negligent discriminatory practices based on public declarations which associated negative behaviours (criminality and violence) with the Roma communities as a whole. It resulted in the application of a fine to the amount of 278.50 EUR.<sup>50</sup>

42. The Advisory Committee was informed during the visit that approximately one third of the total number of complaints received by the Commission for Equality and Against Racial Discrimination are dealt with by the Commission itself; about one third of the complaints are transferred to other sectoral bodies that do not necessarily have the same power of sanction,<sup>51</sup> whilst another third is rejected because they are inadmissible.

43. While generally welcoming the reinforced Commission for Equality and Against Racial Discrimination, several Advisory Committee interlocutors criticised, *inter alia*, the lack of follow-up and feedback about the processing of their complaint; the very small number of complaints investigated, which, according to them, does not reflect the reality and variety of discrimination faced by persons belonging to the Roma communities; the low number of sanctions and the perception that fines imposed were not sufficiently dissuasive,<sup>52</sup> as well as the lack of visibility given to those sanctions, including fines, on the website of the High Commission for Migration.<sup>53</sup>

44. The Commission for Equality and Against Racial Discrimination has launched a series of activities, including conferences and professional training courses<sup>54</sup>, to better enable various professionals to identify and deal effectively with discrimination cases, including concerning Roma. Training provided to Roma associations also aimed at raising their awareness on the importance of reporting on discrimination and on means available to citizens to do so, including about the various steps to filing a complaint, when, for instance, hate speech occurs on online platforms. The Advisory Committee took note that the team of educators includes a Roma staff member of the Support Unit to Roma Communities. The Advisory Committee also noted that legal professionals (lawyers, judges and prosecutors) are unfortunately not targeted by this training programme.

45. The Ombudsperson informed the Advisory Committee that the number of complaints about discrimination of persons belonging to the Roma communities remains very limited, with ten complaints concerning Roma out of 13 000 complaints in total received in 2018. The Advisory Committee notes that in comparison with the Commission for Equality and Against Racial Discrimination, the Ombudsperson receives a limited number of complaints, which could possibly be explained by the general lack of information among Roma interlocutors and Roma associations about the role of the Ombudsperson, possibly caused its limited outreach. The Advisory Committee is satisfied that the Ombudsperson conducted an *ex-officio* investigation about the schooling of Roma children.

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<sup>50</sup> Process no. QN45/2017/ACM-PP. This case is related to facts which occurred in April 2017 when Law 18/2004, from 11 May 2004 was still in force.

<sup>51</sup> From the authorities listed in paragraph 31 only the Ombudsperson and the Commission for Citizenship and Gender Equality do not have the power to apply sanctions, including fines. These two bodies only make recommendations to other bodies and authorities. All other listed bodies and authorities are entitled by law to apply sanctions, including fines, whether it is a penal (only applicable for the Public Prosecutor), an administrative or a disciplinary sanction.

<sup>52</sup> See para.41 above.

<sup>53</sup> According to Article 15 of Law 93/2017, "Judgments handed down on civil liability shall be forwarded to the Commission for a period of five years, including at least the identification of the convicted legal persons, on the website of the High Commissioner for Migration, after a final and unappealable decision, information on the type and nature of the discriminatory practice and the set compensation."

<sup>54</sup> In 2018 there has been 2 963.5 hours of training, 45 training actions which involved 895 participants (among them police officers, school professionals, prison guards, NGOs, municipalities, local immigrant supporters, etc.). The authorities reported in the State Report (p.36) for the previous FAPE edition a total of 61 actions, 1 249 training hours, 1 231 participants and 66 other initiatives, such as seminars, lectures, documentary films or exhibitions, involving 5 000 visitors.

46. The Regulatory Authority for the Media takes also action on complaints about discrimination and has received 21 such complaints since 2009.<sup>55</sup> In case its Board finds that a complaint could qualify as a criminal offence, the file is forwarded to the Public Prosecutor. The Regulatory Authority for the Media Authority estimates that it sends annually two to three cases to the Public Prosecutor. Cases not forwarded to the Public Prosecutor may be dealt with by the Regulatory Authority for the Media itself. However, the media legislation does not formulate sanctions for this Authority to impose in cases of discrimination: in the cases seen by the Advisory Committee, the Regulatory Authority for the Media made the media outlet aware of the infringement of a fundamental right and asked for future compliance. In one case, the decision was made public.

47. Reportedly, the number of complaints about discrimination in the media is on the increase, which appears to be linked to some members of the public being increasingly alert to discrimination in the Portuguese media and filing complaints with the Regulatory Authority for the Media. This Regulatory Authority for the Media also receives complaints through the High Commission for Migration.<sup>56</sup>

48. As indicated before, the Regulatory Authority for the Media is only one of the multiple of institutions and sectorial bodies that may deal with complaints of discrimination. While new legislation has given the Commission for Equality and Against Racial Discrimination a central role and strong investigative powers and sanctions, this is not necessarily the case for the other sectorial complaint bodies to which the Commission refers cases. Furthermore, certain sectorial complaint bodies lack the possibility of imposing dissuasive sanctions.<sup>57</sup> The Advisory Committee observed that the fact that there are several authorities which can receive and deal with complaints, combined with their practice of moving complaints between bodies, may make it difficult for *inter alia* persons belonging to the Roma communities to know whom to address to file complaints.<sup>58</sup>

### *Recommendations*

49. The Advisory Committee urges the authorities to resolutely address and combat direct and indirect discrimination faced by persons belonging to the Roma communities by stepping up efforts to raise their awareness of legislative standards, existing human rights and equality bodies, as well as of various mechanisms for filing complaints and remedies available to victims of discrimination, hatred and racism.

50. The Advisory Committee calls on the authorities to endow the sectorial anti-discrimination bodies responsible, as well as the Ombudsperson, with proper investigative powers and with the power to impose sanctions, to effectively monitor cases of discrimination, hatred and racism, and to shorten and simplify complaint procedures; and to provide timely follow-up and feedback to complainants on the status of and response to their complaint.

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<sup>55</sup> See for example the decision ERC/2017/232. See para. 42 of [ECRI 5th monitoring cycle report](#) on Portugal published on 2 October 2018.

<sup>56</sup> As stated in para. 42 of [ECRI 5th monitoring cycle report](#) on Portugal two other regulation mechanisms to prevent, detect and take down hate speech on the Internet and in the traditional media exist. The Ethics Council of the Union of Journalists rules on complaints relating to violations of the Journalists' Code of ethics, revised in 2017. Its article 9 states that "the journalist rejects discrimination against people on grounds of their ancestry, colour, ethnic origin, language, place of origin, religion, political or ideological beliefs, education, financial status, social status, age, sex or sexual orientation". In addition, the body in charge with issuing press cards may withdraw a card from a journalist who has committed an infringement, although in practice, sanctions are very rare.

<sup>57</sup> See footnote 51.

<sup>58</sup> The High Commission for Migration and the Commission for Citizenship and Gender Equality indicated that there are many cases of discrimination and/or hate speech that were not reported to them. According to the 2016 FRA's EU-MIDIS II study, only a quarter of the respondents in Portugal were aware of these two institutions. According to the same study, only 5% of Roma victims contacted an authority following discrimination.

51. The Advisory Committee also encourages the authorities to provide human rights training to identify and deal effectively with discrimination cases, including about Roma, to legal professionals, such as lawyers, judges and prosecutors.

### **The National Roma Communities Integration Strategy and ACM Action Plan**

52. Through Resolution no. 154/2018 of the Council of Ministers of November 2018, the Roma Integration Strategy 2013-2020 has been extended until 2022 and the composition and functioning of the Consultative Council, acting as an inter-ministerial commission in charge of monitoring the implementation of the Roma Integration Strategy, have been modified.

53. The Roma Integration Strategy covers key areas of integration such as education, housing, health, employment and professional training<sup>59</sup> and sets out clear and ambitious objectives. The Strategy has more action-based measures, clearer indicators and yearly targets. The implementation of the Strategy is regularly monitored, and assessment reports are regularly published.<sup>60</sup>

54. Whilst the Advisory Committee reiterates its appreciation for the comprehensive scope of the Roma Integration Strategy, problems persist in the concrete impact of existing legislation, policies and practices on the issues of social integration and combating discrimination (see also Articles 12 and 15).

55. The Advisory Committee was informed that following a call for support launched in June 2017, out of 55 expressions of interest from municipalities, 12 local action plans involving 14 municipalities have been selected<sup>61</sup> to receive state support for their work with Roma communities.<sup>62</sup>

56. The Advisory Committee was pleased to observe that certain municipalities it visited, such as Figueira da Foz, Torres Vedras and Moura, have a long experience designing local projects with the involvement of Roma mediators and Community Action Groups. Furthermore, the Advisory Committee welcomes the selection through the abovementioned call for support of municipalities such as Porto where the local administration, Roma mediators and administrative support teams expressed a strong interest to engage in this process following an analysis of the local housing, employment and education situation, conducted together with local Roma focus groups. The Advisory Committee was also pleased to note that the municipality of Torres Vedras, whilst not selected from the last call, decided to execute its local action plan from its municipal budget.

57. The Advisory Committee took note that in January 2015 the High Commission for Migration launched the Fund to Support the Activities of the National Roma Communities Integration Strategy (FAPE) (hereafter the “Roma Integration Strategy Support Fund”), which is decisive to the completion of the Strategy goals and the work developed by the High Commission for Migration in this respect. The

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<sup>59</sup> In 2019, nine projects on professional training and employment have been accepted.

<sup>60</sup> According to the 2016 report on the Strategy's application, 94% of the measures provided for in the Strategy had been put into operation and 1 173 initiatives had been carried out to implement it.

<sup>61</sup> Selected municipalities are: Albufeira, Almada, Barcelos, Castelo Branco, Évora, Figueira da Foz, Matosinhos, Oeiras, Porto, Tomar, as well as two intermunicipalities: Borba-Estremoz and Moura-Mourão. Each of the selected municipality received 4 500EUR for the design (not the implementation) of their Local Action Plan. This financial support comes from the European Union's Rights, Equality and Citizenship Programme, aimed at assisting with the design of Local Plans for the Integration of Roma Communities and which foresees the active participation of mediators, of Roma members of Community Action Groups, and of other members of the Roma communities.

<sup>62</sup> The selection criteria included the entire national territory, municipalities with a large number of persons belonging to the Roma communities and marked by a diversity of intervention programmes or projects. Additionally, the experience with project management and the overall technical capacity of the different municipalities was a key factor to select the local action plans.

Roma Integration Strategy Support Fund has several objectives<sup>63</sup> and “areas of engagement”<sup>64</sup> and finances a series of projects. Having in mind the still precarious economic situation of many persons belonging to the Roma communities in Portugal and the already impressive number of proposals received from municipalities to the last call for support for local Roma communities’ integration action plans, the Advisory Committee considers that an increase of the Roma Integration Strategy Support Fund would lead to wider geographical coverage and a more immediate impact.

58. The Advisory Committee welcomes the increase in the budget allocated to the implementation of the Roma Integration Strategy,<sup>65</sup> and the fact that an external evaluation<sup>66</sup> of the first two editions of the Roma Integration Strategy Support Fund took place. The Advisory Committee also appreciates that under the third edition of the Roma Integration Strategy Support Fund, 18 projects from civil society were approved, some of them directly managed by Roma associations.<sup>67</sup> The Advisory Committee welcomes the variety of themes and areas of engagement of FAPE supported projects.

59. The Advisory Committee also took note that the Roma Integration Strategy is also partially financed by budgets of partners responsible for each priority and was informed that the budget for activities developed by other public entities do not always specify amounts for the Roma communities, because some of the measures also target other vulnerable communities.

#### *Recommendations*

60. The Advisory Committee recommends that key public administrations at state and local levels, in close cooperation with Roma communities, take ownership and assume responsibility for achieving the objectives of the Roma Integration Strategy falling within their area of competence and earmark necessary financial resources, as well as gather reliable data in their respective area of competence that can underpin policy progress overtime. The Advisory Committee also calls for a rigorous and regular assessment, in close cooperation with members of Roma communities, of the impact of policy measures and outcomes and to ensure sustainability of the actions.

61. The Advisory Committee invites the authorities to consider further increasing the Roma Integration Strategy Support Fund to have wider geographical coverage and a more immediate impact.

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<sup>63</sup> The FAPE objectives include the promotion of non-discrimination and public awareness; the promotion of training on citizenship and to encourage the participation of Roma communities to exercise their communitarian participation; the promotion of knowledge of the Romani history and culture; as well as the promotion of other actions that materialise the execution of the National Roma Communities Integration Strategy.

<sup>64</sup> FAPE areas of engagement are: a) Awareness-raising actions to combat discrimination of Roma communities and to promote intercultural dialogue between the Roma communities and society at large; b) Actions focused on the promotion of gender equality or focused in the development of citizenship skills and conciliate the professional, personal and family life; c) Training actions in Romani history and culture and the promotion of community participation, including through associations; d) Actions/initiatives to promote economic and entrepreneurial activities and the development of skills for the labour market; e) Actions/initiatives to value of the importance of schooling and of the continuity of school attendance.

<sup>65</sup> On the first edition of the Roma Integration Strategy Support Fund, the High Commission for Migration approved 11 projects, with a total budget of 50 000EUR. Those projects were implemented all over the country in partnership with different partners and with a special focus on activities to promote the fight against discrimination, awareness of public opinion, and training on citizenship. In 2016, in a second edition of this Support Fund, the High Commission for Migration supported 21 projects with a total budget of 100 000EUR. On 7 November 2017 it launched the third edition for 2018 and 2019 with an amount of 250 000EUR.

<sup>66</sup> See: <https://www.acm.gov.pt/documents/10181/167771/Relatório+de+Avaliação+FAPE+2015e+2016.pdf>.

<sup>67</sup> Three of these 18 projects are managed directly by Roma associations and the others, at least, with the participation of persons belonging to the Roma communities. The call for project proposals is available here: <https://www.acm.gov.pt/-/iii-edicao-fape-fundo-de-apoio-a-enicc-candidaturas-ate-30-de-novembro>.



62. The Advisory Committee recommends the organisation of training of administrative support teams and local authorities' leaders in defining objectives and planning actions, as well as for managing the position of the mediator and the institutions themselves.

## Article 5 of the Framework Convention

### Support for the preservation and development of Roma identity and culture

63. The Roma Integration Strategy includes a specific dimension to promote Romani history and culture. One of the main objectives is to publicise and celebrate relevant dates, namely the International Roma Day (8 April)<sup>68</sup> and the National Roma Day (24 June).<sup>69</sup> A significant number of other events aimed at promoting Romani culture and history – some of them supported by the Roma Integration Strategy Support Fund – took place over past recent years: this includes: seminars,<sup>70</sup> workshops,<sup>71</sup> concerts,<sup>72</sup> music and dance festivals,<sup>73</sup> launching events of publications,<sup>74</sup> radio programmes,<sup>75</sup> training actions and production of films, videos and documentaries,<sup>76</sup> screening of films and documentaries,<sup>77</sup> photo exhibitions,<sup>78</sup> and the promotion of Romani traditions and crafts.<sup>79</sup> Furthermore, on some occasions, the High Commission for Migration provided direct financial support to intercultural activities contributing to the promotion of the Romani culture.<sup>80</sup> The Advisory Committee also noted that some municipalities support Romani arts and culture from their own municipal budget.<sup>81</sup> The Advisory Committee believes that using arts and culture to bridge divides between persons from different communities is a valid approach.

64. The Advisory Committee welcomes the production of a Pedagogical kit for schools about Romani history and culture "*Romano Atmo*", developed by the Association for the Development of Portuguese Roma Women (AMUCIP), which was presented to the Advisory Committee during its visit. Representatives of this association, however, expressed their regret about the lack of interest and support from the authorities to disseminate this material more widely in Portuguese schools.

<sup>68</sup> Protocol signing ceremonies of Roma Associations Support Programme 2018 to celebrate the International Roma Day, on 9 April 2018 and on 8 April 2019.

<sup>69</sup> National Campaign on Roma Communities, launched by the Government of Portugal, through the Secretary of State for Citizenship and Equality, in partnership with the Portuguese Network Anti-Poverty (EAPN Portugal).

<sup>70</sup> International Seminar on Roma Communities on 6 April 2017 at Calouste Gulbenkian Foundation.

<sup>71</sup> In 2015, the Association "Concretizar" promoted the workshop "Culture and Roma History", as well as the workshop "Roma Music" and dance workshop "*Me kamav te khelav*".

<sup>72</sup> Concert "*Recital de Cante*" of Esperanza Fernández (Spain) on 6 April 2017.

<sup>73</sup> In 2018 the association Glocal Music had the project "Festival of Intercultural Dialogues in Beja" and developed a festival with music and Roma dance articulating also with *cante alentejano*. In 2018 Sílabo Dinâmica - Intercultural Association developed the project "Our Voice" with music workshops and Roma dance for young people.

<sup>74</sup> Launching event of the 9<sup>th</sup> Edition of "*Olhares*" Collection.

<sup>75</sup> Beira Serra-Association started the project "YES! Sensitize, Include, Mobilize" with the objective of promoting the history and culture of Roma through radio programmes in Belmonte. This project is in its third edition and continues.

<sup>76</sup> In 2016, the "Look at the Wheel" project of the ATV-Academic of Torres Vedras promoted training actions on Romani history and culture, as well as on the theme of film, video and documentary production related to the theme. In 2018 a documentary "*Entre os Montes*" told the life history of a leader from the Roma communities.

<sup>77</sup> Premiere and screening of the documentary "*Entre os Montes*".

<sup>78</sup> A 2018 photo exhibition about the Roma communities, their culture and the different stories of those persons.

<sup>79</sup> In 2017, the project "All together we could create" promoting Romani culture and traditions, using arts and crafts.

<sup>80</sup> ACM supported with 20 000EUR the organisation "*Sociedade Artística Musical dos Pousos*" for the development of the "IL Trovatore - Roma do Lis" project focusing on music, history and Romani culture and workshops for young Roma and non-Roma, culminating in a closing concert "Fogueira Cigana" in Leiria. The ACM and the local authority of Elvas also supported the Second Intercultural Festival of Elvas, took place on 9 April 2016 in the city of Elvas and promoted by Sílabo Dinâmica - Intercultural Association. The festival aimed to collect food and promote the intercultural artistic dialogue between the diverse cultures existing in Elvas.

<sup>81</sup> The Advisory Committee, during its visit in Torres Vedras, also visited a Romani artist's exhibition in the premises of the municipality and was pleased to hear about Torres Vedras municipality's efforts to promote Romani arts and culture among the general population in various locations (townhall, museums, shopping centres, in schools, etc.), which also contribute to the self-esteem of members of the Roma communities. Intercultural dialogue and self-esteem of members of the Roma communities are also promoted in Torres Vedras through videos showing role models, such as a young Roma sportsman and a young Roma girl promoting school attendance.

65. Furthermore, the Advisory Committee was informed that one of the four types of workshops under the OPRE capacity building programme<sup>82</sup> explores Roma identities and, more generally, the notion of multiple identities.

66. In addition, the pilot project “Heritage Education” started in 2018, coordinated by the Ministry of Education and with the participation of UNESCO-Chair Portugal, universities, Roma representatives, and various schools in the Lisbon region. One of the main objectives of this pilot project is to promote respect for the diversity of values and traditions.

67. The Advisory Committee was informed that the authorities are unaware of the existence of print or broadcast media in Caló<sup>83</sup> or the Romani language in Portugal.

#### *Recommendation*

68. The Advisory Committee encourages the authorities to continue investing with sustainable state funding, in cooperation with Roma communities, in the protection and promotion of Romani cultures and identities on a national basis, including in mainstream public media, involving where possible Romani artists and role models from the Roma communities.

### **Article 6 of the Framework Convention**

#### **Respect and intercultural dialogue**

69. The Portuguese authorities have tasked several institutions, including the High Commission for Migration<sup>84</sup> and the Regulatory Authority for the Media with the promotion of intercultural dialogue and diversity within the remit of their mandate. In particular, the High Commission for Migration has promoted numerous initiatives in this area. For 2018, these initiatives included training/awareness-raising sessions on “Cultural and Religious Diversity in the Portuguese Community” for 98 police officers from the National Republican Guard (GNR). Furthermore, the High Commission for Migration has signed protocols with the Public Security Police (PSP),<sup>85</sup> the National Republican Guard (GNR)<sup>86</sup> and the Directorate General of Prison Services and Reintegration (DGRSP),<sup>87</sup> providing training on ethnical, religious and cultural diversity present in Portugal.<sup>88</sup>

70. The High Commission for Migration seeks to combat the spread of racism and discrimination in media by sensitizing journalists and other communication professionals to promote, together with these professionals, a better understanding of cultural diversity.

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<sup>82</sup> See Article 12 for more information on the OPRE capacity building programme.

<sup>83</sup> Caló – also called Romano by the Portuguese Roma – is the traditional (non-territorial) language of the autochthonous Romani population of the Iberian Peninsula, the Calé.

<sup>84</sup> See footnote no. 55 for training actions. Among other training materials, the High Commission for Migration uses the NET-Kard manuals for key professionals (four have been designed for the police, for lawyers and jurists, for the media and for associations) in preventing discrimination against Roma.

<sup>85</sup> PSP is the state police. Under this Protocol, as of May 2019, 74 training sessions in the area of integration, cultural diversity and fight against discrimination have taken place in the framework of the “TOGETHER FOR ALL Programme”, with the participation of 1 355 police officers and agents from all over the country. In 2018, the training targeted 1 000 police officers and 300 prison guards from across the country. For further information about the training programme “Together for all” see: <https://www.acm.gov.pt/-/acm-e-psp-juntos-por-todos->

<sup>86</sup> As of May 2019, under this Protocol, 128 soldiers received special training.

<sup>87</sup> As of May 2019, 369 professionals received training on deconstructing stereotypes, racial discrimination and intercultural education. See: <https://www.acm.gov.pt/-/acm-e-dgrsp-assinam-protocolo-de-colaboracao-capacitar-profissionais-da-reeducacao-e-reinsercao-social-para-a-interculturalidade->

<sup>88</sup> In addition, in March 2019 the High Commission for Migration provided special training to 150 new criminal police inspectors.

71. To this end, the High Commission for Migration included in its Plan of Activities, the organisation and/or co-organisation of events and initiatives, as well as the promotion of materials such as the Practical Guide for Social Communication Agencies which focuses on the prevention of discrimination against Roma communities in the media and provides resources, rules and guidelines to improve the quality of media reports about the Roma communities. Further, every year since 2015, the High Commission for Migration organises the Cultural Diversity Communication Award. This annual event aims to reward essays, published and/or disseminated in print and digital media, with a relevant contribution to the promotion of cultural diversity, the fight against discrimination and, in particular, the integration of society.

72. The Advisory Committee takes note of the various projects aimed at encouraging, respecting and promoting intercultural dialogue. Nevertheless, despite these efforts, knowledge about Roma communities within society remains limited and is still fuelled by mistrust<sup>89</sup> and prejudice. Many of the Advisory Committee's interlocutors indicated that it is only for the last 20 years that efforts have been made to improve living and social conditions for persons belonging to these communities; before, Roma communities led a parallel existence in Portugal.

73. This could explain one example of discrimination against persons belonging to the Roma communities which continues to be widespread; there is a practice of displaying ceramic frogs in restaurants and shops aimed at discouraging persons belonging to the Roma communities from entering the premises, since for persons belonging to Roma communities, such objects have negative, culturally engrained connotations.<sup>90</sup> The Advisory Committee was informed that in certain municipalities (such as in Moura), projects have been launched to convince shopkeepers and restaurant owners to remove these objects. The Advisory Committee welcomes such initiatives and would encourage the Portuguese authorities to set up or support similar projects elsewhere in the country.

74. Furthermore, the Advisory Committee is concerned that on several occasions during its visit, members of the Roma communities expressed that it was difficult to declare openly their ethnic identity as they felt they would be discriminated against (e.g. in their workplace) or be the victim of bullying (for children in school) or hate speech (adults) due to anti-Roma prejudice and stereotypes still present among the general population and in the media.<sup>91</sup>

75. Despite the above, the Advisory Committee notes with satisfaction that, according to its interlocutors, including those from the Roma communities, a general climate of tolerance prevails in Portugal. At the same time, hate speech and racism are present in public discourse and concern in particular the Roma and migrant communities. It has also been reported by interlocutors to be widespread on social media.<sup>92</sup>

### *Recommendations*

76. The Advisory Committee calls on the authorities to firmly condemn all expressions of racism or intolerance, including those addressed to members of the Roma communities, and ensure that they are effectively prosecuted and sanctioned.

<sup>89</sup> See the National Roma Communities Integration Strategy, p.5.

<sup>90</sup> Persons belonging to the Roma communities in Portugal traditionally associate frogs with sorcery. The younger generation of Roma no longer have this association but see the display of a ceramic frog in a shop, bar or restaurant as a sign that they are not welcome to enter.

<sup>91</sup> Between 2008 and 2017, a study based on an annual sample of 30 editions of four prime time news programmes was carried out. This counted 47 television news items featuring the Roma communities. In 17 items, the context of the news item was negative (crime and violence, police interventions or court cases).

<sup>92</sup> [ECRI 5<sup>th</sup> monitoring cycle report](#) on Portugal, para. 29.

77. The Advisory Committee encourages the authorities to support projects throughout the country aimed at combating anti-Roma stereotypes and prejudice, including projects aimed at convincing shopkeepers and restaurant owners to remove ceramic frogs.

78. The Advisory Committee encourages the authorities to take all necessary measures, in fighting anti-Roma prejudice and stereotypes and addressing anti-Gypsyism as a specific form of racism so that persons belonging to the Roma communities feel more secure to self-identify as Roma.

### **Policing and respect for human rights**

79. As to the Portuguese police forces, both the PSP and the GNR have engaged in several projects aimed at improving the contacts with the Portuguese population, including migrants and youth.<sup>93</sup> Furthermore, the GNR has introduced community policing which, in the view of the Advisory Committee, is an important step for an organisation which is still strongly linked to the military. The Advisory Committee understands that introduction of the changed approach to policing was accompanied by specific policy measures, including targeted human rights training for police officers, as well as programmes to improve contacts with all parts of the Portuguese population, including migrants. Also, in the State Report the authorities have indicated that the PSP has adopted a zero-tolerance policy against any act of discrimination committed by its staff.

80. In this respect, a recent audit on police abuse and racial discrimination in both GNR and PSP police forces by the General Inspectorate of Internal Administration (IGAI) makes clear that there is no room for complacency within the police forces.<sup>94</sup> Rather, the IGAI calls for a “significant reinforcement” of police training in fundamental human rights. Importantly, this audit flagged a lack of understanding within the police forces about the diverse social contexts in which GNR and PSP have to operate. The Advisory Committee was also made aware that the conclusions of this audit were made public a week after a PSP officer, who was forced to resign from the vice-presidency of the Trade Union Association of Police Professionals (ASPP), the largest union of the PSP, following strong internal opposition after he had pointed out the existence of racism in the police forces. The Advisory Committee welcomes this audit and expects the Portuguese authorities to repeat the IGAI audit regularly.

### *Recommendation*

81. The Advisory Committee encourages the authorities to expand training in fundamental human rights given to members of the police forces.

### **Protection from hate crime and hate speech**

82. In Portugal, hate crime falls under Article 240 of the Criminal Code. Between 2013 and 2017, no complaints about discrimination on racial or religious grounds have been reported to the police or public prosecutor.<sup>95</sup> Further, between 2013 and 2016 zero occurrences were recorded where racial hatred was a contributing factor in the commission of a homicide or an assault. Also, information provided in the Appendix of the fourth State Report indeed indicates that there have been no cases of crimes against cultural identity and personal integrity recorded in the courts of first instance for crimes of racial or religious discrimination in the years 2013-2016. There were also no defendants and convicted criminal

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<sup>93</sup> In the previous school year, about 2 500 awareness-raising sessions were carried out in the scope of the PSP “Safe School” Programme.

<sup>94</sup> This audit began four years ago. In the so-called Risk Mapping, an exhaustive analysis of inspections, audits, disciplinary proceedings and denunciations was carried out between 2014 and 2018, with the objective of identifying the “critical points” in police activity and seeking solutions.

<sup>95</sup> During the visit, one interlocutor of the Advisory Committee indicated that in Portugal, hate speech is still perceived as an expression of an opinion, not as a crime.

cases. As a consequence, between 2013 and 2017 zero persons were sentenced on any of the grounds contained in Article 240 of the Criminal Code.<sup>96</sup>

83. The Portuguese authorities explain the absence of sentences by referring to the technical process of gathering data and issues of confidentiality. However, the Advisory Committee also notes the observation by ECRI in its fifth monitoring cycle report on Portugal that the definition of hate speech and hate crimes used by the police and the prosecutor's office is too narrow, and that the vast majority of hate speech incidents are not reported to them.<sup>97</sup>

84. Several allegations of hate speech were generated through the vast network of anti-Discrimination complaints bodies, including the Commission for Equality and Against Racial Discrimination, the Ombudsperson and various sectorial complaints mechanisms.

85. As for social media, representatives of civil society have informed the Advisory Committee of the existence of numerous hate-filled messages on Internet and social media. This hate speech notably targets persons belonging to Roma communities. Only few media outlets filter comments prior to publication on their sites and reject those containing hate speech. Civil society feels that the sanctions, taking the form of warnings, are far too light and generate a climate of impunity.

86. Since the rise of hate speech in the media and more specifically on social networks is a threat to cohesion and social harmony, the Advisory Committee considers that the authorities should introduce a more effective system for detecting and swiftly taking down hate speech on the Internet and in the traditional media. As indicated in Article 9 of Law No. 53/2005 setting up the ERC, it is preferable to support the media in their self-regulatory bodies, including by providing them with the necessary financial resources. Only if those stakeholders are unable to combat hate speech effectively, the Advisory Committee considers that authorities should step in and introduce effective regulation from the outside.

### *Recommendations*

87. The Advisory Committee urges the relevant authorities to effectively investigate and prosecute hate crime and step up their interaction with the individuals and groups exposed to racism and intolerance and encourage them to lodge complaints.

88. The Advisory Committee urges the authorities to take resolute measures in order to prevent and combat the dissemination of hate speech and discrimination in the media, including on the Internet. Without compromising the independence of the media, the authorities should follow-up that the media and Internet providers prohibit hate speech in their conditions of use and enforce that prohibition. The Advisory Committee calls on the authorities to provide the Regulatory Authority for the Media with the legal possibility to impose appropriate sanctions if discrimination should occur.

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<sup>96</sup> In its Report on Portugal published by the Directorate-General for Justice and Consumers of the European Commission in 2018 regarding a reporting period from 1 January 2017 to 31 December 2017), the European Equality Law Network indicated that no complaints and therefore no judicial decisions on racial or religious discrimination have been reported between 2013 and 2017. See: <https://www.equalitylaw.eu/country/portugal>.

<sup>97</sup> In ECRI's [fifth monitoring cycle report](#) on Portugal it "recommends that the police services and the Portuguese prosecutor's office adopt a broad definition of a racist, homo- or transphobic incident and register any hate speech or crime perceived as being racist, homo- or transphobic by the victim or any other person as such. In addition, they should further step up their interaction with the groups exposed to racism and intolerance and encourage them to lodge complaints."

## **Article 12 of the Framework Convention**

### **Education and research on culture, history, language and religion**

89. In the State Report, the Portuguese authorities provided no information on the status or usage of Caló, and nor does the Roma Integration Strategy 2013-2022, as revised by the Council of Ministers Resolution no. 154/2018, provide for any specific measures concerning Caló.

90. Interlocutors of the Advisory Committee belonging to the Roma communities made no specific request regarding the use of Caló in relations with the administrative authorities or its teaching within the formal educational system. They have, however, expressed concerns about its disappearance. While older generations are more knowledgeable and have a better command of Caló, younger generations use only a few words. The Advisory Committee was told in Moura by interlocutors belonging to the Roma communities that it is nevertheless used in contacts with Spanish Roma who speak variants of Caló and that it is increasingly used for communication among Portuguese Roma youth on social media. It became clear that despite its marginalised use, Caló is seen as part of the identities of Portuguese Roma.

91. The Advisory Committee is aware that the status of Caló is still unclear and that Caló spoken by Portuguese Roma might also be classified as a variety of Portuguese with lexical elements from Romani. However, the Advisory Committee is concerned that the absence of any nation-wide research or targeted policy measures in this field could be reflective of a general lack of information about and awareness of the usage of Caló.

92. The Advisory Committee considers that, given the age of those who are still speaking it, Caló might be endangered and if the authorities do not act it risks disappearing. Resolute support is therefore needed, and the media, in particular social media, could play a central role in a process of linguistic revitalization, not for the sole linguistic purpose of keeping Caló alive, but for maintaining the cultural link between persons belonging to the Roma communities and Caló.

93. Furthermore, an interlocutor of the Advisory Committee belonging to the Roma communities in Moura indicated that some members of the Roma communities may be interested in learning Romani, their original language lost due to persecution during the 18<sup>th</sup> century, with a view to being able to better communicate with large parts of Roma communities outside the Iberian Peninsula who preserve the use of the Romani language. In this regard, the Advisory Committee underlines that past assimilation policies make the revitalisation of the Romani language essential to promote the endeavour by persons belonging to the Romani communities to keep their culture and for them to be able to exchange with Roma communities living elsewhere in Europe.

#### *Recommendations*

94. The Advisory Committee calls on the authorities to commission research on the linguistic nature of Caló and its usage, after due consultation with Caló-speakers determining the need for the development and implementation of a plan to preserve and revitalise Caló and with a view to allowing its transmission to, and popularisation among, younger generations.

95. The Advisory Committee recommends that consideration should be given, in close cooperation with Roma communities, to the provision of non-formal education in Romani to those interested, making use of existing Romani teaching materials available in Europe and native-speakers of Romani among non-Portuguese Roma residing in Portugal.

### Intercultural education and Roma history teaching

96. The State Report informs that the 2017 National Strategy for Citizenship Education (ENEC)<sup>98</sup> sets the introduction of a new curricular domain – Citizenship and Development – in all levels of education (from pre-school to upper secondary), as it is considered to be the school's responsibility to provide all children and young people with education that promotes active citizenship, as well as fairer and more inclusive societies. Interculturalism, promoting cultural and religious diversity, as well as non-discrimination practices are among the six priorities defined in this Strategy.

97. The Advisory Committee was also informed that the Portuguese authorities pursue educational improvements through *inter alia* the granting of a greater autonomy for schools, including in respect of the curriculum: up to 25% flexibility will be introduced in primary and secondary education curriculum, aiming at fostering interdisciplinary work and enriching the Core Curriculum Competences.

98. In line with Council of Europe Committee of Ministers' Recommendation CM/Rec(2009)4 to member states on the education of Roma and Travellers in Europe,<sup>99</sup> this could be a good opportunity to propose schools throughout the Portuguese territory to introduce Roma history teaching in school curricular to give the opportunity for the younger generation to learn about the historical presence of Roma in Portugal, about their culture and traditions, as well as their contribution to Portuguese society.<sup>100</sup> The teaching of Romani history could rely on material that already exists in Portuguese<sup>101</sup> or material produced at the European level.<sup>102</sup>

#### *Recommendation*

99. The Advisory Committee calls on the authorities to include information about Roma communities' culture and history in national school curricula, with due regard to their identity and historical presence in Portugal and their contribution to society.

### Textbooks and other teaching and learning materials

100. The Advisory Committee was informed that in Portugal school textbooks are selected by schools, after a prior certification by the national authorities, based on the analysis of independent expert teams, usually composed of Professors of Education in Higher Education institutions.<sup>103</sup> Moreover, considering that such analysis and certification is a long process, in 2017, the authorities produced new guidelines for the criteria used by schools to textbook selection, which include Article 2.3: "to promote citizenship education, particularly avoiding cultural, ethnical, racial, religious or sexual discrimination, and respecting the principle of gender equality".<sup>104</sup>

#### *Recommendation*

101. The Advisory Committee encourages authorities to invest in teacher training and to include in the next school guidelines the need to pay due attention that textbooks contain non-stereotyping

<sup>98</sup> The National Strategy for Citizenship Education (ENEC), launched in partnership between the Secretary of State for Citizenship and Equality and the Secretary of State for Education, is available at: [www.dge.mec.pt/sites/default/files/ECidania/Docs\\_referencia/estrategia\\_cidania\\_original.pdf](http://www.dge.mec.pt/sites/default/files/ECidania/Docs_referencia/estrategia_cidania_original.pdf).

<sup>99</sup> Paragraph 17 of CM/Rec(2009)4 states: "Roma history and culture should be appropriately reflected in the general curriculum, including teaching about the Roma extermination as part of the Holocaust/genocide of Roma".

<sup>100</sup> The Advisory Committee was informed that in Torres Vedras, Romani culture is taught at primary school.

<sup>101</sup> Such as the Pedagogical kit for schools about Romani history and culture "*Romano Atmo*", developed by AMUCIP Association with FAPE support (see paragraph 64).

<sup>102</sup> See Council of Europe [Roma history factsheets](http://www.coe.int/t/e/education/roma/roma_history_factsheets.aspx), available online in nine languages.

<sup>103</sup> This analysis is ruled by the criteria settled in the Law no. 165/2006, article no. 11, including the constitutional principles and values, namely non-discrimination (no. 2), and social and cultural diversity (no. 3).

<sup>104</sup> All the information ruling this process is available here: <http://www.dge.mec.pt/manuais-escolares>.

information about Roma communities' culture and history, with due regard to their identity, historical presence in Portugal and their contribution to society.

### Equal access to education

102. The overall situation of Roma children with regard to access to education remains a serious concern with lower school enrolment and educational performance of Roma children as compared to non-Roma children: 22.3% of Roma children leave school before the age of 15.<sup>105</sup> The analysis of data collected through the 2014 National Study on Roma Communities<sup>106</sup> shows, however, that the number of Roma youth enrolled in the second and third educational cycle (5 and 9 years of school) continues to rise; 57.5% of respondents had children or grandchildren attending school.

103. Early "marriages"<sup>107</sup> appear to be a significant reason for school dropout, in particular in rural areas. The Advisory Committee notes that the lack of in-depth studies on this issue makes it difficult to obtain a clear picture as to its prevalence. During the visit, interlocutors' responses about this question generally acknowledged that Roma boys and girls may get "married" as early as 12-13 years in more traditional and rural communities,<sup>108</sup> but that elsewhere in Portugal, such marriages would usually do not take place before the age of 17-18.<sup>109</sup> However, in view of the school dropout figures, the phenomenon seems to be relatively significant around the age of 14-15. Interlocutors have told the Advisory Committee that, for the poorest Roma families, school fees, school lunches, costs of textbooks, transport costs and the purchase of clothes and shoes still form an obstacle to education. Cases of bullying of Roma children have also been reported by the Advisory Committee's interlocutors as a potential reason for Roma children's school dropout.

104. The Advisory Committee considers that the authorities should ensure that all Roma children attend compulsory education, i.e. a minimum compulsory schooling of 12 years.<sup>110</sup> Such efforts could include the expansion and sustainable use of Roma mediators in the field of education and the introduction at all levels of pedagogical assistants working inside the school/class and who can assist Roma children and their families in their contact and inclusion in the educational system.<sup>111</sup> The Advisory Committee was informed that for the next school year 2019/2020, and for the first time following the adoption of By-Law no. 10-B/2018, all schools will have the possibility to hire professionals other than teachers, which would include Roma mediators and Roma school assistants. In addition, the Ministry of Education, as well as school administrations for objectives falling within their area of competence, should assume the responsibility for achieving the main education-related objectives of the Roma Integration Strategy, and primarily ensure that all Roma children attend the twelve years of compulsory education.<sup>112</sup>

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<sup>105</sup> This percentage corresponds to the students enrolled in the 3 cycles in 2016/2017 compared to those who left school based only the students enrolled in school. In 2016/2017 school year, 6% of Roma children left school before finishing basic education. Source: Directorate-General of Education survey for school year 2016/2017, available: <http://www.dgeec.mec.pt/np4/906.html>. According to FRA 2016 EU-MIDIS II Survey results, 90% of Roma children of compulsory school age in Portugal, i.e. from 6 to 17, participate in education but this figure drops to 74% after the age of 15 (i.e. 26% of them dropped school which is close to the 22.3% estimate provided by the survey of the Portuguese Directorate-General of Education survey.

<sup>106</sup> Covering 24 000 Roma from 149 municipalities.

<sup>107</sup> See footnote no. 7 for explanation.

<sup>108</sup> Information provided in Moura.

<sup>109</sup> Information provided in Figueira da Foz.

<sup>110</sup> Decree Law no. 176/2012 of 2 August 2012.

<sup>111</sup> In line with Recommendation CM/Rec(2009)4 of the Committee of Ministers to member states on the education of Roma and Travellers in Europe. The Advisory Committee was informed that for the next school year 2019/2020 and, for the first time following the adoption of By-Law no. 10-B/2018, all schools will have the possibility to hire professionals other than teachers which include Roma mediators and Roma school assistants.

<sup>112</sup> The objectives in education for example are to ensure that by 2020, 60% of Roma children successfully complete compulsory schooling; and that school drop-out is cut by 60%.



The school administrations should also target levels for educational achievement and reductions in school dropout.

105. The Advisory Committee welcomes progress achieved in the enrolment of Roma children at all educational levels and understands that this progress could be mainly attributed to Roma mediators, the granting of scholarships (OPRE programme), tailored educational programmes such as the Choices programme which aims to fight discrimination against Roma in access to education and prevent Roma children from absenteeism and early dropout,<sup>113</sup> as well as imposition of the condition of school attendance on families with children to receive the minimum income. Progress in this area has also been achieved through the introduction of Roma tutorial support (e.g. in Figueira da Foz), by involving Roma parents in school activities (e.g. cooking activities in Porto and Figueira da Foz), and by providing *ad hoc* literacy classes to Roma adults (e.g. in Torres Vedras).

106. The Advisory Committee was made aware, however, that in certain areas the concentration of persons belonging to the Roma communities is such that certain school classes largely or completely consist of Roma children. It was reported to the Advisory Committee that this comes often as a short-term negative side effect of the rehousing policies put in place over recent years, where vulnerable families reside in social housing concentrated in certain municipal areas creating *de facto* ghettos.<sup>114</sup> Children from these families tend to be enrolled in the school nearby leading therefore to *de facto* “gypsy schools”.<sup>115</sup>

107. The Advisory Committee was informed by the authorities that, occasionally, school administrations still decide on their own to open separate classes for Roma children, which would lead, provided they are made aware of it, to a joint intervention by central authorities, namely the State Secretary for Citizenship and Equality and the Ministry of Education, sometimes combined with a local action from the local schools’ cluster.<sup>116</sup>

### *Recommendations*

108. The Advisory Committee urges the authorities to enforce compulsory education for all children and further reduce school absenteeism and early dropouts among Roma children; to this end, the Advisory Committee strongly encourages the authorities to conduct an in-depth study on both internal and external causes of early dropouts and absenteeism, closely involving members of the Roma communities, as well as all competent authorities at state and municipal levels, with a view to adjusting educational policies and measures. The Advisory Committee also calls on authorities to ensure sufficient and sustainable funding for structures and staff required to support Roma families in their contact and inclusion in the education system.

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<sup>113</sup> The Choices Programme (*Programa Escolhas*) includes measures to put an end to discrimination against Roma in access to adequate education and measures to prevent absenteeism and early dropout from school of Roma children, in particular among girls. It has been developed by the High Commission for Migration and promotes the social inclusion of children and young people from vulnerable socio-economic contexts particularly descendants of immigrants and ethnic minorities. In this Programme, local projects are designed to match the specific needs of the people to whom it is directed and have a strong emphasis in school support to increase academic success. For further information: [www.programaescolhas.pt](http://www.programaescolhas.pt).

<sup>114</sup> Another reason is the aging of the Portuguese population in central Portugal combined with the low birth rate of the majority population, which *de facto* increase the proportion of the Roma communities in certain areas.

<sup>115</sup> Concentration at school was still substantial according to the 2016 nation-wide study, with 11% of Roma children schooled in classes of entirely Roma pupils. The same percentage – 11% - appears in FRA 2016 EU-MIDIS II survey results.

<sup>116</sup> Recent cases in Viseu (Primary school of Paradinha) and in Famalicão (Primary school of Meães) led to joint actions by the Secretary of State for Citizenship and Equality, the Ministry of Education, and local schools’ cluster.

109. The Advisory Committee calls on the authorities to develop, in close consultation with representatives of Roma communities and parents, flexible teaching and learning solutions adapted to the needs of young people and adults.

110. The Advisory Committee calls on the authorities to design indicators, determining their initial values and setting target values to be attained, for example regarding the school dropout rate and the school success rate of Roma pupils, and to ensure that enough quantitative and qualitative data are available in this area to be able to monitor progress.

111. The Advisory Committee strongly encourages the authorities to remain vigilant regarding possible cases of separate classes/schooling for Roma children and increase awareness-raising actions in schools to deliver the message that this goes against the principle of an inclusive education.

### **Preschool education**

112. In the State Report, the authorities indicated that according to the results of a 2017 survey conducted by the Ministry of Education to all schools in Portugal regarding the 2016/2017 school year, 60% of the Roma children attended preschool (ages 3 to 5). This number is rising.<sup>117</sup> The authorities reported that this percentage came as a positive surprise since on the one hand pre-school education is not compulsory in Portugal, and, on the other hand, a commonly held idea among the general population is that Roma families would be against sending their children to preschool.<sup>118</sup>

113. The Advisory Committee takes note that the above results for Roma children are higher than the results from the 2016 EU Fundamental Rights Agency (FRA) EU-MIDIS II which suggest that participation rates of Roma in early childhood education in Portugal are stalling as compared to the FRA 2011 Roma survey. According the 2016 EU-MIDIS II FRA survey, 42% of Roma children (31% for Roma girls and 51% for Roma boys) were enrolled in preschool in 2016 compared to 94% for the general population.<sup>119</sup>

114. Whilst welcoming the positive developments in this regard, the Advisory Committee underlines that the rate of early childhood education for the general population is close to the 95% EU benchmark for 2020, whilst the rate for Roma children falls short of the same benchmark. More educational activities aimed at involving children at an early age and their parents in the school environment could be proposed to remedy the situation, such as Roma education incubators,<sup>120</sup> cooking activities, etc.

### *Recommendation*

115. The Advisory Committee encourages the authorities to take measures to increase the rate of school attendance for Roma children in preschool education, recruit Roma as school assistants in preschools in accordance with new By-Law no. 10-b/2018, step up pupil support measures for them, as well as develop awareness activities with their parents, and Roma communities in general, on the importance of early school education.

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<sup>117</sup> According to the 2014 National Study on Roma communities, only 42% of Roma children (31% of girls and 51% of on a national scale boys) were in pre-school education.

<sup>118</sup> See pages 27-28 of the state report. See footnote no. 125 about the survey conducted by the Directorate-General of Education in 2017 and published on 9 April 2018.

<sup>119</sup> Roma-selected findings of the Second European Union Minorities and Discrimination Survey (<https://fra.europa.eu/en/publication/2016/eumidis-ii-roma-selected-findings>). The percentage for the general population is from Eurostats 2014.

<sup>120</sup> Roma Education Incubators are day centres where the following activities are carried out: social activities and workshops for pre-school and school children and their parents; homework and study help; workshops for parents in social topics of interest, etc. Source: Page 45 of CAHROM (2012)18 Thematic report on inclusive education as opposed to special schools, available here: <https://www.coe.int/en/web/roma-and-travellers/thematic-reports> (under 'Education').

### Primary, lower and upper secondary and higher education

116. The Advisory Committee welcomes the fact that following its recommendation in the third cycle opinion, the Ministry of Education carried out a survey on all schools in the country, in October-November 2017, regarding the 2016/2017 school year.<sup>121</sup> However, it regrets to note that results of this survey suggest that due to poor socio-economic conditions<sup>122</sup>, by far then majority of Roma pupils do not progress beyond the first and second cycles of basic education (1<sup>st</sup> to 6<sup>th</sup> grades), although the number of Roma pupils in the secondary education was much more important than in previous surveys;<sup>123</sup> the retention rate of Roma students in basic education was 44%;<sup>124</sup> 90% of the Roma pupils were in “regular classes”, while less than 1% were in “domestic learning”.<sup>125</sup>

117. Higher education completion rate continues to be very low amongst the Roma population. However, some progress has been achieved over recent years<sup>126</sup> thanks to the adoption of a scholarship programme for young Roma to access higher education. In the 2<sup>nd</sup> round of the OPRE programme,<sup>127</sup> developed by civil society and the High Commission for Migration, 30 young Roma men and women were able to start university studies in 2017,<sup>128</sup> which is seen by many of the Advisory Committee’s interlocutors as a historic turning point. The third round of the OPRE Programme started in 2019, involving 32 Roma students (16 men and 16 women) promoting the integration of Roma students in Higher Education courses.<sup>129</sup> The Advisory Committee welcomes that, following a positive assessment of the results of granting scholarships to Roma students in higher education, the provision of 100 scholarships to Roma students in the upper secondary level will be granted as of 2019 under a new ROMA EDUCA programme. The Advisory Committee believes that awarding scholarships to Roma, especially to girls, will create in the short-term positive Roma role models and lead to the creation of a new generation of Roma leaders, including women, able to take part more actively in socio-economic life and in decision-making at local and national levels.

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<sup>121</sup> The authorities highlighted that data on Roma population in schools was not collected for 20 years, due to an interpretation of violating a Constitutional norm on data protection, so this survey was a major landmark. The results of this survey elaborated by the Directorate-General of Education are available here: <http://www.dgeec.mec.pt/np4/906.html>.

<sup>122</sup> Around 68% of the Roma students are supported by the School Social Action Service (including free meals, textbooks, other educational resources, transportation, etc.).

<sup>123</sup> In 1997/98, there were 16 Roma students in upper secondary, and in 2016/17, the number rose to 256.

<sup>124</sup> There is a “cumulative effect” (29% of the Roma students already failed more than once during basic education).

<sup>125</sup> Gender gaps are low. Attendance and success rates are slightly higher among boys, whilst the opposite happens in the overall population. In the case of Roma, “domestic learning” is almost only attended by girls.

<sup>126</sup> The Advisory Committee was made aware during the visit of 30 graduated Roma, including two Roma girls under the 2017/2018 2nd Edition of the Operational Programme for the Promotion of Education (OPRE). One of them finished her degree in Law and the other in Sociology. Among those Roma who graduated, three were mentioned by Advisory Committee’s interlocutors in Porto, and one in Torres Vedras.

<sup>127</sup> The OPRE was launched in October 2016 to encourage and to promote access of young Roma to higher education. It aims to reduce barriers between these communities and the formal education system, as well as to prevent early school dropout. OPRE became a governmental policy due to public recognition of the positive results of the Opré Chavalé Project promoted by the Portuguese Platform for Women’s Rights in partnership with Association Letras Nómadas in the academic year of 2015/2016. Opré Chavalé was conducted by civil society organisations, including a Roma association, and was supported by the High Commission for Migration through the Choices Programme in 2016, with the attribution of eight scholarships. Presently in its 6th generation (2016-2018), the Choices Programme supports 112 approved projects across Portugal. The action of each local project targets children and young people between 6 and 30, involving other people as well, such as family members and the community at large.

<sup>128</sup> In the academic year 2017/2018 (2nd edition of the OPRE programme), 28 students completed the whole process foreseen in the Programme; 18 were successful at school and the remaining 10 were not able, due to various reasons, to fulfil the goals initially defined. The overall school success rate was 64%, with a success rate of 75% for female participants (9 out of 12 participants successfully completed the school year) and male participants with a rate of 56% (9 of the 16 participants successfully completed the school year).

<sup>129</sup> The average age of the students is 26. See information about the selection for the 3rd edition of the OPRE programme here: <https://www.acm.gov.pt/-/3-edicao-opre-resultados-das-candidaturas>.

*Recommendation*

118. The Advisory Committee invites the authorities to considerably increase the number of Roma students who receive scholarships and expand the granting of scholarships to lower secondary education and ensure that all Roma students in need of support are provided with the necessary financial assistance to pursue their education, such as free meals, textbooks, other educational resources, and transportation.

**Article 15 of the Framework Convention**

**Participation of persons belonging to the Roma communities in public affairs**

119. The Advisory Committee acknowledges that the authorities have made considerable efforts over recent years to increase the participation of persons belonging to the Roma communities in advisory bodies and state structures, although more needs to be achieved in terms of participation of persons belonging to the Roma communities in political life, and participation of Roma women in general, as mediators and members of advisory and consultative structures.<sup>130</sup> The Advisory Committee was also informed by representatives of Roma communities that nowadays they feel that they have a voice, as opposed to earlier when others were speaking on their behalf, and that they are pleased to have now the possibility to elect their own representatives in the Consultative Council for the Integration of Roma Communities.

120. The Advisory Committee was informed that there are two young Roma working, one man and one woman, in the Support Unit to Roma Communities of the High Commission for Migration. They contribute as educators on Romani culture, traditions and identity at training actions for various professionals implemented by the High Commission for Migration. The State Secretary for Local Authorities, and former mayor of Torres Vedras, is also a self-declared Rom.

121. At municipal level, several local authorities/municipalities, following the proposals made by Roma Community Action Groups members, have employed self-declared Roma in the framework of the Contract of Employment and Inclusion Programme.<sup>131</sup>

122. Apart from these already positive examples, the Advisory Committee notes that the participation of Roma in political life is very low. Several Portuguese Roma participated in several training sessions of the "Roma Political Academy" Council of Europe programme with the aim of empowering Roma activists to become active in politics and political participation in general.

123. In order to increase the participation in the civic and associative fields public life of Roma women and youth, the High Commission for Migration promoted under the Roma Integration Strategy "The More Leaders Programme-Roma Youth" as a means to empowering and promoting the active participation of 24 Roma young people (seven of whom were women) between the ages of 18 and 35 years old, promoted by the High Commission for Migration.

124. The Advisory Committee was informed that in 2017 the High Commission for Migration launched the first edition of the Roma Associations Support Programme (PAAC) to encourage the participation of Roma associations. This Roma Associations Support Programme supports civil society associations representing Roma communities which have been legally constituted for over a year, as well as Roma associations' projects. The Advisory Committee also welcomes the fact that a budget of 30 000 EUR to

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<sup>130</sup> The Advisory Committee has met various active young Roma men, often acting as mediators or members of Community Action Groups. Roma women met the Advisory Committee primarily as representatives of different Roma associations.

<sup>131</sup> This is the case in Torres Vedras, which the Advisory Committee visited, where nine self-identified Roma have been employed.

40 000 EUR is allocated annually to the PAAC.<sup>132</sup> The associations' projects focus mainly on combatting discrimination, promoting intercultural dialogue, promoting the social advantages of education and of parental participation in schools, as well as gender equality and the empowerment of Roma women. Furthermore, one of the Roma Integration Strategy Support Fund's priorities is to support actions focused on the promotion of gender equality and/or focused on skills development of Roma women, in line with one of the Strategic Objectives of the Roma Integration Strategy, i.e. to promote equality between women and men in Roma integration measures through two measures: the promotion of civic, political and associative participation by Roma girls and women; and the promotion of the participation of Roma girls and women in the labour market and professional activity.

125. The Advisory Committee particularly welcomes the fact that the number of Roma representatives in the Consultative Council for the Integration of Roma communities, coordinated by the High Commissioner for Migration, has been doubled to eight following the adoption of the updated Roma Integration Strategy in November 2018. Furthermore, the representatives of Roma associations are no longer designated by the High Commission for Migration but elected by Roma associations themselves.<sup>133</sup>

126. The Advisory Committee understands that, following the adoption of the new Anti-Discrimination law, the composition of the Commission for Equality and Against Racial Discrimination increased to 31 advisers,<sup>134</sup> with one person belonging to a Roma association. The Advisory Committee considers that this may not suffice, bearing in mind that the largest number of complaints addressed to the Commission concern Roma.

127. Whilst welcoming the government's efforts to establish a more formalised dialogue with Roma communities, and to maintain stronger dialogue with Roma representatives at municipal levels and in state consultation bodies, the Advisory Committee observes that some obstacles continue to restrict the effective participation of Roma in consultation processes. One such obstacle seems to be the lack of explicit and formalised requirements as to what constitutes an effective consultation and at what stage of the decision-making process consultation is to take place. Overall, the Advisory Committee notes that some Roma representatives feel a lack of capacity and that they are in a weak position during negotiations, without the possibility of influencing public authorities, caused by a lack of information, insufficient time to prepare for consultations and, for economic reasons, limited possibilities to attend meetings.<sup>135</sup>

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<sup>132</sup> Initially the PACC had a 40 000EUR budget and funded six Roma Associations for basic utilities, or with small projects that fit within the framework of the Roma Integration Strategy, concerning for instance the promotion of Romani history and culture. In 2018 and 2019, the 2nd and 3rd editions of PAAC were launched, and eight projects from across the country were approved. The projects of the 2019 edition focus on intercultural mediation through capacity building of the Roma and awareness raising of public institutions, and initiatives promoting Roma women's empowerment, to contribute to gender equality and work-life balance. In 2018, the total PAAC budget was 30 000EUR. It increased to 32 000EUR in 2019.

<sup>133</sup> See instructions for the electoral process of Roma associations to the CONCIG for the years 2019-2022 at: [https://www.acm.gov.pt/documents/10181/165564/Convocat%C3%B3ria\\_CONCIG\\_2019.pdf/15c8bb73-d59e-4670-af45-9c1812d49255](https://www.acm.gov.pt/documents/10181/165564/Convocat%C3%B3ria_CONCIG_2019.pdf/15c8bb73-d59e-4670-af45-9c1812d49255) (in Portuguese).

<sup>134</sup> The CICDR is chaired by the High Commissioner for Migration. Other members of the CICDR are from a wide variety of backgrounds, including representatives of the Government, parliamentarians from various political groups, representatives of civil society, such as human rights and anti-racist organisations, representatives of associations defending the rights of migrants and refugees, a representative of a Roma association, and representatives of trade unions and representatives of employers (the full list can be found at <https://www.cicdr.pt/-/membros-da-cicdr-composicao-atual>).

<sup>135</sup> Some of the representatives of Roma associations elected in the new Consultative Council for the Integration of Roma communities have expressed regret that despite the revision of the legislation they still do not have their travel costs reimbursed by the state, which has a negative impact on their regular participation in CONCIG meetings, and as result reduces the "Roma voice" in the CONCIG.

### *Recommendations*

128. The Advisory Committee recommends that the authorities consider increasing the number of representatives of Roma associations among the members of the Commission for Equality and Against Racial Discrimination.

129. The Advisory Committee strongly encourages the authorities to take measures for Roma to effectively participate in consultation processes and influence decisions that are relevant to them. To do so, the Advisory Committee calls on the authorities to provide Roma representatives with sufficient information, to build their capacity to negotiate with the authorities and to provide them with sufficient economic means to attend meetings, for example through the reimbursement of travel costs.

### **Roma mediators and Community Action Groups**

130. The Advisory Committee notes with satisfaction that both Roma mediators and Roma representatives of Community Action groups actively participate in the design and implementation of local action plans for Roma communities' integration in municipalities visited by the Advisory Committee<sup>136</sup> and have, through their contacts with the communities, also facilitated research and ethnic data collection.

131. The Advisory Committee understands that Roma mediation was introduced in Portugal in 2009, prior to the joint Council of Europe/European Commission ROMED1 Mediators' Training programme and ROMED2 'Democratic Governance and Roma Community Participation through Mediation'.<sup>137</sup>

132. The Advisory Committee was informed that since the beginning of 2019 the mediator programme has become a governmental policy under the name "Intercultural Municipal Mediators Programme". It was extended to migrant communities, and is partly funded by the Portuguese state budget (15% of the overall costs).<sup>138</sup> Local municipalities in the Northern, Centre and Alentejo regions<sup>139</sup> lead the Partnership with the High Commission for Migration and are obliged to identify local civil society organisations as partners, preferably migrant and Roma communities associations, for the setting-up of "Intercultural

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<sup>136</sup> Porto, Figueira da Foz, Torres Vedras and Moura.

<sup>137</sup> Before ROMED, there were other initiatives promoting the role and the capacities of the intercultural mediator, organised by different institutions. For example, in 2003, an institution related to the Catholic Church, *Obra Nacional para a Pastoral dos Ciganos*, promoted training sessions on intercultural mediation, delivering diplomas to mediators. In October 2009, the High Commission for Immigration and Intercultural Dialogue (ACIDI) – former High Commission for Migration (ACM) – launched a pilot national programme directed at municipal mediation called Municipal Mediators Project (*Projeto Mediadores Municipais Ciganos*), engaging a group of 15 municipalities. In 2011, a second phase of the programme involved another group of seven municipalities. In 2013, ROMED1 was organised on a sequential and complementary perspective to the national programme, having a synergistic effect. ROMED1 programme reinforced the intercultural mediation in Portugal with the certification of 26 Roma mediators, out of them 3 women. As of 2014 ROMED2 followed and brought a more innovative approach, enhancing the participation of Roma in local decision making in 8 municipalities, stimulating the self-organisation of Roma communities into Community Action Groups (CAGs). For further information, see ROMED in Portugal factsheet at: [http://coe-romed.org/sites/default/files/Portugal\\_alt\\_1page.png](http://coe-romed.org/sites/default/files/Portugal_alt_1page.png); ROMED1 website: <http://coe-romed.org/romed1> and ROMED2 website: <http://coe-romed.org/romed2/about>. A synthesis of the evaluation of the ROMED project is available at: [http://coe-romed.org/sites/default/files/documentation/Roma%20municipal%20mediator%20project.%20Experimental%20project%20evaluation%20results%20-%20Summary%20report.final\\_0.pdf](http://coe-romed.org/sites/default/files/documentation/Roma%20municipal%20mediator%20project.%20Experimental%20project%20evaluation%20results%20-%20Summary%20report.final_0.pdf) and Portugal country findings at [http://www.coe-romed.org/sites/default/files/Country%20findings\\_Portugal.pdf](http://www.coe-romed.org/sites/default/files/Country%20findings_Portugal.pdf).

<sup>138</sup> A considerable number of mediators have been recruited since the adoption of the Roma Integration Strategy in 2013. The current number of municipal mediators, both for Roma and migrants, who are active under the "Intercultural Municipal Mediators Programme" is 42 (20 Portuguese Roma, 13 Portuguese and 9 immigrants). 12 municipalities are involved in the programme. Mediators are divided into 12 different teams since some of them work together in the same municipality, like in Porto.

<sup>139</sup> The call was open between 27 April and 14 June of 2018 and the ACFC delegation, during its visit, observed an advert about this call in Moura municipality newspaper and met both migrant and Roma mediators recruited under this programme in Porto.

Mediation Teams” and sign Partnership Agreements. The programme has a budget of 3 500 000 EUR funded by the European Social Fund under the Operational Employment and Social Inclusion Operational Programme (PO ISE) that promote two types of actions implemented by the High Commission for Migration: the integration of Roma mediators into municipalities and the socio-professional insertion of the Roma communities. The Portuguese municipal mediators programme – sometimes called ROMED3 – aims to develop better relations between Roma communities, local authorities and the general population, and at supporting the empowerment of Roma as a key tool to help overcome entrenched prejudices and stereotypes and foster better community relations. The Roma Association Letras Nómadas acts as a programme coordinator.<sup>140</sup> A Portuguese Association of Roma mediators was also set up, with its headquarters in Beja.

133. During its visit, the Advisory Committee was able to appreciate that Roma mediators equipped with adequate language and cultural skills and trained on intercultural mediation have been able to contribute to the progress made for Roma communities at local level. Roma mediators have contributed *inter alia* to the improvement of access to public services and hospitals, to the fight against discrimination, to increased school attendance, to solving housing-related issues, to the creation of job opportunities and to the promotion of Romani arts and culture. For the Advisory Committee, this pragmatic and participatory approach shows that cooperation between Roma and the general population at the local level, fostered by strong political support, is a worthwhile and cost-effective investment that needs to be supported and sustained. However, the Advisory Committee underlines the importance of having Roma mediators more closely involved in devising and applying objectives and measures to respect cultural characteristics and specific needs of Roma families and individuals, for example in the housing and employment sectors. For Roma mediators to continue to have the trust of Roma communities, the Advisory Committee wishes to point out that it is important that they remain independent in their role.

134. The Advisory Committee is pleased to note that, in several municipalities visited, namely Figueira da Foz, Torres Vedras and Moura, representatives of Roma communities have the possibility to participate through Community Action Groups in local decision making, including sometimes in the allocation of municipality grants. Whilst the Advisory Committee could observe that several representatives of these Roma community action groups met during the visit had become respected partners of the municipality, the Advisory Committee finds that some of the principles of Community Action Groups of Roma communities are unclear.<sup>141</sup> Members of the Community Action Groups seem to be self-appointed and could in theory have little connexion with the local Roma communities which questions their accountability to the rest of the Roma communities; the number of Community Action Groups members is not fixed, which may question the way decisions are taken.

### *Recommendations*

135. The Advisory Committee encourages the authorities to extend the Intercultural Municipal Mediators Programme to more municipalities, whilst ensuring Roma mediators’ independence from undue interference, as well as regulating the professional status of the socio-cultural mediators, promoting and securing certified training and employability of Roma mediators, in particular women, and ensuring the programme’s sustainability through adequate state support.

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<sup>140</sup> The High Commission for Migration acts as an intermediary between this funding source and Letras Nómadas.

<sup>141</sup> For instance, the Community Action Group (CAG) principles foresee that the CAG is recognised as a partner in dialogue by the local authorities; that decisions democratic and consensual; however, anyone can join or leave the CAG at any time. This does not guarantee any minimum number of Roma CAG members to take decisions and make proposals to local authorities on behalf of the Roma communities. See CAG principles: <https://rm.coe.int/romacted-handbook/168094ef65>.

136. The Advisory Committee suggests that some further clarity should be provided as regards the participation of members of the Roma communities in Community Action Groups.

### **Participation of persons belonging to the Roma communities in social and economic life**

#### **Employment**

137. The Advisory Committee notes with regret that Portuguese Roma continue to experience a high unemployment rate which excludes them from effective participation in social and economic life.<sup>142</sup> Unemployment is still disproportionately high among Portuguese Roma adults<sup>143</sup> and many of them are at risk of poverty and social exclusion since they are only employed in low-skilled work.<sup>144</sup> Access to the labour market is complex, but in the case of persons belonging to Roma, discrimination appears to be an additional obstacle,<sup>145</sup> as well as stricter regulations in traditional activities of Roma families, such as street vending.<sup>146</sup>

138. The Advisory Committee was made aware during its visit in Moura that most of the Roma from this region work in Spain, mainly on agricultural land, in jobs which are not always declared to the authorities. According to Roma representatives in Moura, they have great difficulties in being offered a job in the municipality and the surrounding area.

139. Several measures are taken by the authorities to foster the employability of persons belonging to Roma communities under Roma Integration Strategy.<sup>147</sup> From January 2014 to July 2018, the Institute for Employment and Vocational Training (IEFP) identified a total of 13 991 persons as Roma and applied specific measures to increase their employability. A total of 30 643 interventions were carried out by the IEFP, in accordance with the Roma jobseekers' Personalised Employment Plans.<sup>148</sup>

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<sup>142</sup> For example, in Figueira da Foz, an unemployment rate of 90% among the Roma communities was mentioned by the Advisory Committee's interlocutors.

<sup>143</sup> The analysis of data collected from 149 municipalities having participated the 2014 National Study on Roma Communities show that 11% of Roma respondents were professionally active, whilst 28% were unemployed (compared to 14% for the general population's unemployment rate in 2014), the rest being in invalidity, retirement or studying. Out of the ones who are professionally active, 23% of the respondents were self-employed and 15.8% were employees. See

<https://www.obcig.acm.gov.pt/documents/58622/201011/estudonacionalsobreascomunidadesciganas.pdf/89b05f10-9d1f-447b-af72-dac9419df91b>.

<sup>144</sup> There was a significant gender gap amongst respondents, men being more professionally active than women.

<sup>145</sup> According to the 2015 Eurobarometer, 19% of the respondents in Portugal replied that they would feel uneasy about having a person belonging to the Roma community as a colleague. During the visit, a Rom who works as a taxi driver said he had to hide his ethnic affiliation to avoid discrimination at work.

<sup>146</sup> See [Thematic Commentary No.4](#), para. 66. which states *inter alia* that "particular attention must be paid to members of the most disadvantaged segments of society, that is those who have been disempowered economically, socially or geographically, due to their size or because of past experiences of conflict."

<sup>147</sup> In total, 3 159 candidates covered by the Roma Integration Strategy; this resulted in 6 027 actions and 2 269 were directed to programmes and employment measures, professional guidance and RVCC. 94% of these were directed to professional training.

<sup>148</sup> The "Personal Employment Plan" is a written document listing the services/response to be provided by the IEFP, in accordance with the jobseeker's profile. A total of 3 616 Personal Employment Plans have been established between January 2014 and July 2018. 8 883 referrals to Employment and Vocational Training Programmes were recorded, leading to the integration of 4 008 Roma in Vocational Training Measures and 208 in Employment Measures. Source: Human Rights Council in its National report on Portugal submitted in accordance with paragraph 5 of the annex to Human Rights Council resolution 16/21 (Thirty-third session of the Working Group on the Universal Periodic Review, 6–17 May 2019).



140. In addition, the High Commission for Migration launched a programme to foster Roma labour market participation through vocational<sup>149</sup> and on-the-job training,<sup>150</sup> and as well as awareness-raising actions for employers and local employment agencies' staff.<sup>151</sup> The authorities reported that in order to facilitate access of persons belonging to Roma communities in employment, 572 persons were offered employment. Furthermore, some persons belonging to the Roma communities took part in Recognition, Validation and Certification of Competences (RVCC)<sup>152</sup> training actions and a further 25 persons belonging to Roma communities attended Apprenticeship and Adult Learning training actions in the sales field with the support of IEFP employment centres throughout the country.

141. The authorities also informed the Advisory Committee that the ACCEDER programme and campaigns inviting employers to recruit Roma, already implemented in Spain, will be tested in Portugal. The authorities also reported that in complement to the intervention of the Employment Services, persons belonging to Roma communities benefit from individual counselling provided by local structures in cooperation with IEFP Professional Integration Services (GIP).

142. The Choices Programme,<sup>153</sup> developed by the High Commission for Migration, promotes the social inclusion of children and young people from vulnerable socio-economic contexts particularly descendants of immigrants and ethnic minorities. Under this Programme, local projects are designed to match the specific needs of the target groups. One of the five strategic areas of the Choices Programme is "Employability and Employment", including support for transition into the labour market.

143. Specific measures, targets and indicators concerning Roma women and girls are being considered by the Commission for Citizenship and Gender Equality under the Action Plan "Equality between women and men 2018-2021" which it promotes and monitors under the National Strategy for Equality and Non-discrimination 2018-2030. This Strategy is, alongside the Roma Integration Strategy, supervised by the High Commission for Migration. One of the measures of Objective 7 consists in providing training of professionals working with vulnerable groups, including ethnic minorities. The Advisory Committee observes, however, that the number of training sessions does not provide any information on whether these training sessions had an impact on professionals trained.<sup>154</sup>

144. Whilst welcoming actions taken by the Institute for Employment and Vocational Training (IEFP) to address the situation of Roma unemployment, the Advisory Committee observes that from the total number of Roma who were referred to Employment and Vocational Training Programmes, about half underwent vocational training and only a few of the trained Roma were employed. This can indicate that there is not a complete match between vocational education and training and local employment needs. The Advisory Committee notes that statistical information provided by both the High Commission for Migration<sup>155</sup> and the IEFP reveal that, contrary to the common prejudice that Roma do not want to work, numerous applications for work are received from members of the Roma communities.

145. The Advisory Committee was also informed during the visit that certain measures proposed by Roma civil society – such as the recruitment of Roma mediators in local employment offices or the

<sup>149</sup> 2 126 candidates were advised and directed to professional training; 997 were actually trained. 740 persons benefitted from individual guidance and 351 participated in collective guidance sessions.

<sup>150</sup> 4 Candidates were directed to this type of measure; 2 were integrated; 4 other young people were integrated in a measure called Youth Guarantee.

<sup>151</sup> Continuous pedagogic training of trainers and professional training in a context of cultural diversity were provided.

<sup>152</sup> For further information on the Recognition, Validation and Certification of Competences (RVCC), see: [https://www.researchgate.net/publication/261285140\\_Recognition\\_validation\\_and\\_certification\\_of\\_competences\\_The\\_low-qualified\\_and\\_the\\_learning\\_paradigm\\_in\\_Portugal](https://www.researchgate.net/publication/261285140_Recognition_validation_and_certification_of_competences_The_low-qualified_and_the_learning_paradigm_in_Portugal).

<sup>153</sup> [www.programaescolhas.pt](http://www.programaescolhas.pt) (in Portuguese).

<sup>154</sup> The indicator is the number of sessions for capacity building of human resources of the national equality bodies (Commission for Citizenship and Gender Equality, Commission for Equality in Labour and Employment and the High Commission for Migration) and the National Rehabilitation Institute.

<sup>155</sup> See additional statistics in the field of Roma employment in the fourth State Report, pages 48-49.

introduction of incentives (tax reductions for employers as exist for disabled persons) to encourage employers to recruit Roma – have not been retained by the authorities in the Roma Integration Strategy. The explanation provided by the authorities during the visit was that as Roma are not officially considered as a minority, no such positive measures could be envisaged. Other possible measures, such as job fairs where Roma looking for employment meet potential employers, have not been explored.

### *Recommendations*

146. The Advisory Committee invites the authorities to develop a plan for vocational education and training of Roma which would better match local employment needs.

147. The Advisory Committee recommends that the authorities consider increasing the validation of professional skills of young non-graduate Roma through the system of Recognition, Validation and Certification of Competences (RVCC), further developing micro-credits for self-entrepreneurship and fighting discrimination systematically in the employment sector.

148. The Advisory Committee invites the authorities to find ways to encourage employers, in particular in the private and agricultural sectors, to hire Roma, through for instance the recruitment of Roma mediators in local employment offices, the introduction of financial incentives for employers, or the setting-up of job fairs.

## **Health**

149. The Advisory Committee was informed that access to health care seems to be adequately provided for persons belonging to the Roma communities as for the general population.<sup>156</sup> Data collected from 149 municipalities which participated in the 2014 National Study on Roma Communities show that 92% of Roma respondents said that all members of their families had a doctor from the National Health Service.

150. The Advisory Committee is, however, concerned that, due to their poor living conditions, the health situation of Portuguese Roma remains critical,<sup>157</sup> as evidenced by their significantly lower life expectancy compared to the rest of the population.<sup>158</sup> The Advisory Committee welcomes support provided to initiatives, such as the SMILEY dental care project<sup>159</sup> that contribute to improve health conditions among the Roma communities.

## **Housing**

151. The Advisory Committee welcomes the fact that three Roma-specific housing-related studies were conducted between 2014 and 2018 which evidenced the very difficult housing conditions that many Roma experience in Portugal: an estimated 37% of the Portuguese Roma population live in shanty towns. These shanty towns can be found in more than 70 municipalities.<sup>160</sup> Another study revealed that 8.4% of the estimated Portuguese Roma population lives in precarious living conditions without a fixed residence;

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<sup>156</sup> 96% of Roma respondents, aged 16 and over, indicated that they are covered by national basic health insurance and/or additional insurance. Source: FRA 2016 EU MIDIS II Survey.

<sup>157</sup> See Roma health report, health status of the Roma population, published by the European Union in 2014. <https://publications.europa.eu/en/publication-detail/-/publication/61505667-ec87-4a71-ba4f-845a4a510e11/language-en>.

<sup>158</sup> See: "Promoting the social inclusion of Roma" by the EU Network of Independent Experts on Social Inclusion, December 2011, page 30, available at: [https://www.gitanos.org/upload/44/11/synthesis\\_report\\_2011-2\\_final\\_3\\_1\\_.pdf](https://www.gitanos.org/upload/44/11/synthesis_report_2011-2_final_3_1_.pdf); the average life expectancy of Portuguese Roma is estimated to be 15 years lower than the general population.

<sup>159</sup> The SMILEY project implemented in Figueira da Foz was proposed by the Roma Community Action Group as an awareness-raising campaign among the Roma communities to visit a dentist.

<sup>160</sup> Source: 2016 [Study](#) on the Characterisation of the Housing Conditions of Roma Communities Residing in Portugal conducted by the Institute for Housing and Urban Rehabilitation (IHRU). See also para.22 above.

and 15% live in tents or shacks on lands for which they had either a formal or informal authorisation from local authorities or private owners.<sup>161</sup> A 2014 study showed that 66.6% of Roma respondents were living in conventional dwellings (apartments and houses), whilst 27.5% were living in more informal constructions (wooden shacks). The same study reveals that 74.3% of Roma respondents had permanent access to public water supply and 77.4% to electricity; 26.8% of them had no toilet or a bathroom in their dwelling.<sup>162</sup>

152. The results of the 2016 IHRU study were submitted to the High Commission for Migration and used as complementary data to update the Roma Integration Strategy. They set the basis for the “New Generation of Housing Policies” launched by the State Secretary for Housing in October 2017. This Programme, which called for the guarantee of adequate housing for all those that due to situations of lack of resources and vulnerability are excluded from access to it, entered into force in 2018. The 2016 IHRU study also led to the adoption of the rehousing programme “First Right”<sup>163</sup> and the programme “From Housing to Habitat”.<sup>164</sup> These two programmes are, however, too recent to have an impact assessment. In addition, until now, it has not been possible to disaggregate the number of the Roma beneficiaries from the First Right programme.

153. The Advisory Committee welcomes the determination of the central and of some local authorities to eradicate remaining slum areas through rehousing programmes, encouraging the municipalities to anticipate and solve the housing problems that still persist.<sup>165</sup> The Advisory Committee was informed that a significant number of Roma families have benefited from rehousing programmes in social housing, even though over 20% of Roma families have not benefited yet from these programmes, and are still living in slum areas and are, on occasions, subject to forced evictions.<sup>166</sup> The Advisory Committee was informed that, at present, there are no known cases of walls or fences separating Roma families from the local community, but neighbourhoods continue to be built exclusively for Roma, contrary to their wishes, and away from the centres of localities.

154. The Advisory Committee itself visited in the surroundings of Moura different sites where Roma are living, including social housing, slums, and illegally-built houses on farmland. The Roma are the official owners of the farmland, but the land is at present not able to be built on. Therefore, the families concerned have no access to public services, such as electricity, water and sewerage. During its visit, the Advisory Committee was also informed that Roma families and individuals, including elderly people, were living in the southern part of Portugal in tents with no access to public services.

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<sup>161</sup> Source: *Na luta pelos bons lugares. Ciganos, visibilidade social e controvérsias espaciais*, Lisboa, ACM, 2016. This research also reveals that 74.5% of the 40,568 Portuguese Roma population lived in suitable housing conditions. See: [https://www.acm.gov.pt/documents/10181/167771/OLHARES-9\\_online.pdf/8b4d9e41-c146-4588-ab03-a9688a168a82](https://www.acm.gov.pt/documents/10181/167771/OLHARES-9_online.pdf/8b4d9e41-c146-4588-ab03-a9688a168a82).

<sup>162</sup> Source: Mendes, Magano & Candeias, [2014 National Study on Roma Communities](#). See para.22 above.

<sup>163</sup> Under this programme, only 10 municipalities already have a housing strategy in place, 71 municipalities requested funding to draw up a housing strategy and 50 municipalities expressed an interest in designing a strategy.

<sup>164</sup> The 4 neighbourhoods foreseen under this programme, all of them having Roma families, have already started work: Quinta da Fonte, Concelho de Loures; Cabo Mor, Concelho de Vila Nova de Gaia; São Pedro de Elvas, Concelho de Elvas; and Zona da Escola Técnica, Concelho de Ponte de Lima.

<sup>165</sup> The Consultative Group for the Integration of Roma Communities issued a statement on 9 March 2018 pointing out in particular the housing rights and reinforcing the importance of the municipalities to have a proactive attitude. The statement is available for consultation (in Portuguese) at <https://www.acm.gov.pt/-/comunicado-concig>.

<sup>166</sup> A 2018 Study on Rehousing Needs was conducted by the Institute for Housing and Urban Rehabilitation (IHRU). Conclusions showed that 25 762 families (not just Roma families) in 187 municipalities needed rehousing solutions in Portugal (i.e. 0.78% of the families residing in those municipalities). The study is available here (in Portuguese): [https://www.portaldahabitacao.pt/opencms/export/sites/portugal/portal/habitacao/levantamento\\_necessidades\\_habitacionais/Relatorio\\_Final\\_Necessidades\\_Realojamento.pdf](https://www.portaldahabitacao.pt/opencms/export/sites/portugal/portal/habitacao/levantamento_necessidades_habitacionais/Relatorio_Final_Necessidades_Realojamento.pdf).

155. The Advisory Committee was made aware of certain major concerns related to rehousing programmes: on the one hand, the main approach seems to have been to reallocate families almost entirely to social housing, leaving aside other possible alternatives,<sup>167</sup> due to the location of these social housing units outside city centres and the high number of Roma families rehoused in those places, social housing policies have resulted in spatial segregation or ghetto-like situations in different municipalities, thus reinforcing stigma against Roma among the local population and to some extent creating other social problems. Children from these families tend to be all enrolled in the closest school, leading to *de facto* “gypsy schools”.<sup>168</sup> Social housing units tend to get easily overcrowded since housing policies did not take into consideration family expansion.

### *Recommendations*

156. The Advisory Committee urges authorities to implement as soon as possible national and local plans to develop affordable and adequate housing conditions for vulnerable Roma communities, to rehouse as a priority those Roma families and individuals still living in substandard housing conditions.<sup>169</sup>

157. The Advisory Committee calls on the authorities to promote transparency in the processes of access to social housing, in particular in terms of the eligibility and allocation criteria and place on the waiting list; clear guidelines for the elaboration of regulations for access and allocation of social housing should be centrally produced.

158. The Advisory Committee recommends that the authorities change, where possible, the legal status of farmland into building land in order to remedy the situation whereby Roma have purchased land but cannot access public services or utilities (water, electricity, sewerage, etc.).

159. The Advisory Committee strongly encourages the authorities at both state and local levels to revise the social housing policies and regulations so as to avoid spatial segregation.

## **Articles 17 and 18 of the Framework Convention**

### **Bilateral and multilateral cooperation**

160. The Advisory Committee welcomes efforts to promote Roma-related cooperation initiatives especially across the border with Spain with the effective participation of persons belonging to the Roma communities. For example, in September 2016, a Portuguese governmental committee, with the participation of the Secretary of State for Citizenship and Equality, representatives of the High Commission for Migration, civil society organisations and the Institute of Employment and Vocational Training visited the *Fundación Secretariado Gitano* to learn more about the good practices in national employment and vocational training and measures implemented in Spain.

## **III. Conclusions**

161. The Advisory Committee considers that the present concluding remarks and recommendations could serve as the basis for the resolution to be adopted by the Committee of Ministers with respect to the implementation of the Framework Convention by Portugal.

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<sup>167</sup> The Advisory Committee was informed that in certain municipalities, such as Porto, 90% of Roma families live in social housing.

<sup>168</sup> The Advisory Committee was informed that even if parents have the theoretical possibility to enrol their children in schools other than those closest to their residence, Roma children are often in practice refused by those schools.

<sup>169</sup> See ECRI [fifth monitoring cycle report](#) on Portugal, para. 83.

162. The authorities are invited to take account of the detailed observations and recommendations contained in Sections I and II of the Advisory Committee's Fourth Opinion. In particular, they should take the following measures to improve further the implementation of the Framework Convention:

### **Recommendations for immediate action**<sup>170</sup>

- resolutely address and combat direct and indirect discrimination faced by persons belonging to the Roma communities by stepping up efforts to raise their awareness of legislative standards and of existing human rights and equality bodies, as well as of various mechanisms for filing complaints and remedies available to victims of discrimination, hatred and racism;
- endow the sectorial anti-discrimination bodies responsible, as well as the Ombudsperson, with proper investigative powers and the power to impose sanctions; effectively monitor cases of discrimination, hatred and racism; shorten and simplify complaint procedures; and provide timely follow-up and feedback to complainants on the status of and response to their complaint;
- implement as soon as possible national and local plans to develop affordable and adequate housing conditions for vulnerable Roma communities; rehouse as a priority those Roma families and individuals still living in substandard housing conditions;
- extend the Intercultural Municipal Mediators Programme to more municipalities, whilst ensuring Roma mediators' independence from undue interference, as well as regulating the professional status of the socio-cultural mediators, promoting and securing certified training and employability of Roma mediators, in particular women, and ensuring the programme's sustainability through adequate state support.

### **Further recommendations**<sup>171</sup>

- raise general awareness about the Framework Convention and the protection that it offers to groups who could be potentially interested in it;
- consider ways to ease access to and simplify the various mechanisms for filing complaints; increase awareness about these mechanisms among the Roma communities and other vulnerable groups;
- further improve the situation of persons belonging to the Roma communities, including through additional affirmative measures, especially in the fields of education and employment; strengthen the participation of Roma in economic and social life by building the capacity of Roma associations and evaluating the effects of measures taken in different policy areas, including through a sustainable and human rights-based ethnic data collection system;
- enforce compulsory education for all children and further reduce school absenteeism and early dropping out among Roma children; to this end, conduct an in-depth study on both internal and external causes of these phenomena, involving closely members of the Roma communities, as well as all competent authorities at state and municipal levels with a view to adjusting educational policies and measures.

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<sup>170</sup> The recommendations below are listed in the order of the corresponding articles of the Framework Convention.

<sup>171</sup> The recommendations below are listed in the order of the corresponding articles of the Framework Convention.