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

**COMMENTS OF THE GOVERNMENT OF PORTUGAL
ON THE THIRD OPINION OF THE ADVISORY COMMITTEE
ON THE IMPLEMENTATION OF THE FRAMEWORK CONVENTION
FOR THE PROTECTION OF NATIONAL MINORITIES
BY PORTUGAL**

(received on 8 June 2015)

The Portuguese High Commission for Migration's comments on the Advisory Committee on the Framework Convention for the Protection of National Minorities' Third Opinion on Portugal

I

Portugal welcomes the Advisory Committee's positive comments (**paragraphs 97, 98, 99 and 100**) and reiterates its commitment to adopt and implement policies and measures aimed at persons belonging to minorities.

II

Regarding the issues of concern mentioned in **paragraph 101** of the Opinion, the High Commission for Migration (ACM) would like to reiterate that Portugal applies a comprehensive and integrated vision to equality rights and to the phenomenon of racism on the grounds of ethnicity, race and religious beliefs. The Portuguese approach follows an intercultural model based on integration as a two-way process through which the host society and/or the majority groups and the foreigners and/or the minority groups both have to accommodate and adapt themselves, whilst fully respecting and protecting all human rights and fundamental freedoms.

In terms of the legal framework, the Portuguese Constitution embodies the principle of equality set in Article 13 according to which "*no one shall be privileged, favoured, prejudiced, deprived of any right or exempted from any duty on the basis of ancestry, sex, race, language, place of origin, religion, political or ideological beliefs, education, economic situation, social circumstances or sexual orientation*".



The Law no. 18/2004, 11th May (following the Racial Equality Directive 2000/43/EC) sets the framework for combating discrimination on the grounds of racial or ethnic origin, with a view to fully implementing the principle of equal treatment.

Moreover, racial discrimination is typified as a crime in the Portuguese Criminal Code. Article 240 states that those who establish or set up an organisation, or develop organised propaganda activities which incite discrimination, hatred or violence against a person or a group of persons on grounds of their race, or take part in such an organisation or in its activities or give support thereto, shall be punished by imprisonment for 1 to 8 years.

Furthermore, according to Article 246 of the Criminal Code, any person convicted for the offences established in Article 240 may be temporarily deprived of his/her active and/or passive electoral capacity.

In case of homicide and offences to physical integrity, the fact that the crime was committed on the grounds of racial hatred (including ethnical or national origin) is considered an aggravating circumstance that results in more severe penalties. Racial motivation can also be taken into account when determining the punitive measures to be applied.

Allegations of racial discrimination can also be the basis for an administrative procedure. Administrative complaints of racial discrimination can be submitted to the Commission for Equality and Against Racial Discrimination (CEARD) by anyone against a public authority or service or an individual person. This Commission is chaired by the High Commissioner for Migration and includes representatives elected by the Parliament, Government appointed representatives, representatives from the employers' associations, trade unions, immigrants' associations, NGOs and civil society. This Commission is a specialised body formally created by Law no.134/99, 28th August and in place since 2000.

Regarding the situation of the Roma citizens indicated in **paragraphs 102, 103, 104, 105 and 106**, Portugal adopted a **National Roma Communities Integration Strategy (2013-**

2020). The Strategy is based on the principles of Equality, Non-Discrimination and Citizenship, as defined by the Portuguese Constitution and the EU Council Directive 2000/43/EC, of 29 June 2000 – Racial Equality Directive.

The English version of this Strategy can be consulted in the following link:
http://www.acidi.gov.pt/_cfn/532c521f57fd6/live/Estrat%C3%A9gia+Nacional+para+a+Integra%C3%A7%C3%A3o+das+Comunidades+Ciganas+-+Ingl%C3%AA

The National Roma Communities Integration Strategy (2013-2020) was adopted following an intensely participated process with the involvement of all Government departments, civil society organisations, academia, experts and representatives of Roma communities. It is an important instrument designed to further integrate the Roma population and to eliminate prejudices and misconceptions, thus contributing to the desired full realisation of the rights of the Roma population.

In line with the European Commission's recommendation, Portugal designed its strategy around guiding principles and four strategic areas, namely education, employment, healthcare and housing. Portugal also added a crosscutting pillar in order to respond to several issues affecting Roma communities and to articulate all areas covering discrimination, mediation, education for citizenship, social security, valuation of Roma history and culture and gender equality.

This crosscutting pillar includes the following dimensions:

Dimension I – Knowledge of socioeconomic context of Roma communities and follow-up mechanism of

National Strategy

Dimension II – Discrimination

Dimension III– Education for Citizenship

Dimension IV – Roma history and culture

Dimension V – Gender Equality



Dimension VI– Justice and Security

Dimension VII– Mediation

Dimension VIII – Social Security

The National Strategy's implementation is financed by the budgets of the partners responsible for each priority.

Some of the strategy's measures are also included in the next programming period of the European Union structural funds framework "Portugal 2020", through which specific funds will be assigned for the socio-professional integration for Roma communities.

Regarding the enjoyment of economic, social and cultural rights by the Roma population, there are the following measures and policies aimed at promoting the enjoyment of the right to housing, education and health and access to employment:

(i) Right to housing - members of the Roma communities in Portugal have the right to benefit from housing programs on equal terms with all other persons. Portugal aims to ensure equal treatment of the Roma population in access to housing.

The National Roma Communities Integration Strategy (2013-2020) has the following 4 priority areas on housing:

- i) To improve the knowledge of the housing situation of Roma communities. The general objective is to conduct at least one study on the conditions of access and housing situation of Roma;
- ii) To strengthen practices that promotes the integration of Roma communities in the framework of housing policies;
- iii) To tailor housing solutions and to qualify re-housing spaces;



- iv) To promote access to the rental market/private property. This priority's goal is the promotion of pilot projects for the creation of lease contracts through the establishment of partnerships between municipalities and civil society organisations.

(ii) Right to Employment - the Strategy foresees the following priorities:

- i) To promote the integration of the Roma population in the labour market through awareness raising actions, dialogue with business associations, NGOs, Roma associations and Roma mediators and demystification of negative portrayals of Roma communities;
- ii) To train staff on the specific characteristics of Roma communities;
- iii) To facilitate access to employment and creation of self-employment;
- iv) To improve vocational qualifications with a view to integration in the labour market;
- v) To establish local partnerships for employment and vocational training;
- vi) To revitalize the traditional activities of Roma communities with a view to their socio-vocational integration.

(iii) Right to health - members of the Roma communities have full access to health services as all other Portuguese citizens and foreigners legally residing in Portugal do. This right is enshrined both in the Portuguese Constitution and in the Basic Law on Health.

In this context, it is worth highlighting that the large majority of Roma children are included in the National Immunization Programme.

The Strategy foresees the following priorities regarding the right to health:



- i) To organise training actions on health education and available health services – for example, the use of mobile health units and encouraging the Roma population to enrol in local Health Centres;
- ii) To improve the health of Roma communities by focusing on prevention, including yearly awareness raising sessions on early motherhood, children's health and healthy eating habits;
- iii) To raise awareness of healthcare professionals to cultural diversity and provide training on these issues;
- iv) To build and/or strengthen relationships between health services and Roma communities, by building bridges and establishing partnerships.

(iv) Right to education - Portugal is deeply committed to guaranteeing the right to education to all, including to Roma children.

The Portuguese education system does not foresee the establishment of separate school classes on grounds of origin, race, ethnicity or culture. There are no segregated classes or schools for Roma pupils. Ensuring equal access to education – while respecting the values and traditions of the Roma population – is the main goal to be achieved in the area of education.

Different results have emerged in surveys on the situation of Roma communities in terms of Education. Those which showed better results refer to the involvement of Roma mediators in the education system and to the investment in alternative school *curricula*. Mediators and Roma mediators, integrated in local authorities, have managed to build bridges between these communities and education institutions, governmental and non-governmental organisations, thereby deconstructing stereotypes and contributing to Roma children's full integration.



The National Roma Communities Integration Strategy foresees the following measures in the field of education:

- i) To gain a better insight of the situation of Roma students and trainees;
- ii) To ensure access to Pre-School Education;
- iii) To increase education levels and ensure that all Roma Children complete compulsory education;
- iv) To promote continued education in secondary schools and encourage higher education;
- v) To prevent early school dropout;
- vi) To ensure access to lifelong learning;
- vii) To promote teacher training on Roma culture and diversity by recruiting trainers from Roma communities;
- viii) To fight illiteracy.

In the field of education, there is a project called “Good School Grades” that aims to raise awareness among Roma children and their parents to the importance of School as an institution that is fundamental for their social and personal development.

A Consultative Group for the Integration of Roma Communities was created to monitor the implementation of the National Strategy and to assess the socioeconomic situation of Roma communities. The Consultative Group includes the following members:

- The High Commissioner for Migration, who acts as chairman and coordinator;
- Two representatives of the Government member responsible for internal administration;
- A representative designated by the Government member responsible for the justice sector;
- A representative of the Government member responsible for the economy and employment sector;
- A representative of the Government member responsible for the housing sector;



- A representative of the Government member responsible for the health sector;
- A representative of the Government member responsible for the education sector;
- A representative of the Government member responsible for the solidarity and social security sector;
- A representative of the Regional Government of the Azores;
- A representative of the Regional Government of Madeira;
- A representative of the National Association of Portuguese Municipalities;
- A representative of the National Association of Portuguese Civil Parishes;
- Two representatives of institutions working with Roma communities, to be designated by the High Commissioner for Migration;
- Five representatives of Roma communities associations, to be designated by the High Commissioner for Migration;
- Two citizens of recognized merit, to be designated by the High Commissioner for Migration;
- Two representatives of academic or research institutions with relevant works on Roma communities, to be designated by the High Commissioner for Migration.

The Consultative Group for the Integration of Roma Communities works within ACM.

The Consultative Group for the Integration of Roma Communities (CONCIG) promotes the participation of Roma and the use of integrated approaches. It also contributes to a general mobilisation of partners (such as ministries' representatives, civil society organisations, experts and Roma communities' representatives) that work together towards a common objective. This Consultative Group has been a particularly active platform, namely by delivering statements issues and cases with a high impact on public opinion, for example on Roma girls' education or on cases of discrimination.

In order to overcome the lack of knowledge concerning the social, economic and cultural situation of Roma communities in Portugal, one of the first priorities of the National Roma Communities Integration Strategy (2013-2020) was to create the **Observatory of Roma**



Communities. The Observatory is responsible for preparing a national report on Roma Communities in Portugal. This report was finalized by the end of 2014 and published in 20 January 2015.

III

Regarding the **issues for immediate action** mentioned in the Advisory Committee's Opinion, Portugal is very deeply committed to reducing the backlog of cases of the Commission for Equality and Against Racial Discrimination (CEARD).

The Portuguese authorities are working on a new version of the **anti-discrimination Law** since 2013. Currently all Articles are being analysed, and a new Law is expected to be approved by the end of the year. With this new legislation, the concept of discriminatory practices will be reinforced, regarding for example discrimination based on religious convictions. Higher fines for individuals or public bodies are also foreseen. The new Law will also promote mediation as a tool to solve some discriminatory practices.

It is important to mention that the rise of the minimum wage which took place in October 2014 led to the rise of CEARD's procedures' limitation periods by 200%. As a result this body's efficiency has increased.

CEARD has also launched numerous information campaigns which are widely publicised on the High Commission for Migration's website and facebook account, as well as in publications, leaflets and brochures.

In closing, Portugal would like to reiterate that Roma communities in Portugal have been Portuguese nationals for generations. As such, members of the Roma Community benefit, without discrimination, from all of the measures in place for the general population, including social protection (e.g. Social Insertion Income, housing programmes and access to the National Health Service).



In order to promote the development of new projects, the High Commission for Migration launched a **Fund to Support the Activities of National Roma Communities Integration Strategy (FAPE)** in January 2015. Eleven projects were selected from all over the country. Those projects must be implemented during 2015, in partnership with different stakeholders, with a special focus on activities that promote the fight against discrimination, the information of the public opinion, training on citizenship and the promotion of the participation of the Roma in the community.

It is worth highlighting that more than 80 projects, targeting the Roma communities, are being implemented at this moment through the **“Choices” Programme**, which was developed by the High Commission for Migration. The Choices programme promotes the social inclusion of children and young people from vulnerable socio-economic contexts.

IV

The High Commission for Migration would also like to comment on three ideas that are expressed in the present Opinion on Portugal and that are particularly inaccurate:

It is mentioned in **paragraph 17** that *“expressions of racism and intolerance against Roma and migrants are common in the media and public discourse”*. We consider that the Portuguese society has been able to continue positively welcome and integrate immigrants. According to the 2011 Eurobarometer survey, only 3% of the surveyed Portuguese considered that immigration was an EU problem and 0% considered that it was a problem that Portugal was facing (compared to 20% and 12% respectively for UE27 average).

This positive attitude towards immigration has also been very important in terms of public debate and legislative activity on immigration and integration. The New Immigration Act (2012) and the Nationality Law (2006) were approved by an overwhelming majority in the Portuguese Parliament, reaching consensus among the right and major left wing parties, and proved to be a step forward in welcoming and integrating immigrants.



The Advisory Committee also took note, as stated in **paragraph 32** that *"a lack of financial means"* was presented to justify the alleged *"low number of complaints lodged by victims of discrimination with the CEARD"*. At this point, it is important to reiterate that the presentation of any kind of complaint and all the subsequent work does not represent any financial cost for the citizen.

Finally, the consideration of the Advisory Committee that the alleged lack of consultation represents a *"paternalistic approach of the authorities towards Roma"* referred in **paragraph 37** does not demonstrate, in any terms, the commitment, the efforts and the permanent dialogue between the High Commission for Migration and the formal and informal representatives of the Roma communities.