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

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### **Third Opinion on Portugal adopted on 4 December 2014**

#### **EXECUTIVE SUMMARY**

Portugal continues to take a pragmatic, but limited, approach towards the implementation of the Framework Convention for the Protection of National Minorities. Projects to promote intercultural dialogue and to combat racial discrimination and racism have been maintained, and measures to facilitate the inclusion of migrants and integration of society have been implemented.

It is particularly regrettable that despite the efforts of the Advisory Committee a visit to Portugal could again not take place. Such a visit would have enabled the Advisory Committee to obtain further and more detailed information on the implementation of the Framework Convention in Portugal.

There is a general lack of awareness of the Framework Convention in Portugal, including among persons and groups potentially interested by the protection that it offers. No discussions have been organised concerning the possible application of the Framework Convention to groups other than Roma which could potentially benefit from its provisions. The opportunities for minority representatives and other non-governmental organisations to participate in the monitoring process are limited.

The antidiscrimination legislation and the corresponding system for domestic remedies need further improvements.

The Portuguese authorities adopted in March 2013 the National Roma Communities Integration Strategy 2013-2020 and an Advisory Group for the Integration of the Roma Communities (CONCIG), coordinated by the High Commissioner for Immigration and Intercultural Dialogue, was set up in June 2014. However, problems persist as regards the concrete impact of existing legislation, the policies and practice on the issue of combating discrimination. Roma still face particular difficulties and discrimination in their access to employment, education, housing, health and social services.

Roma also face difficulties in the education system and Roma pupils have continued to be placed in separate classes. Further steps should be taken to strengthen intercultural education at school, as well as to raise awareness among the general public about all the minority cultures as an integral part of Portuguese society.

Some media continue to disseminate stereotypes and prejudices against minority groups, in particular Roma and migrants.

Further measures should be taken to strengthen consultation and co-operation between the authorities and Roma representatives and to improve participation of the latter in decision-making, in particular in areas affecting them.

#### **Issues for immediate action**

- **review the mechanisms for responding to complaints of racial discrimination, and in particular develop further positive measures to promote full and effective equality and significantly increase their impact;**
- **take resolute measures to put an end to discrimination against Roma in access to adequate education, housing, employment and health care facilities;**
- **take vigorous measures to put an end to the practice of placing Roma pupils in separate classes; identify measures to prevent absenteeism and early dropout from school of Roma children, in particular among girls.**

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

**THIRD OPINION ON PORTUGAL**

1. The Advisory Committee adopted the present Opinion on Portugal 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 third State Report (hereinafter the State Report), received on 24 September 2013, and other written sources and on information obtained by the Advisory Committee from governmental and non-governmental contacts during a meeting held in Strasbourg on 18 September 2014.
2. Section I below contains the Advisory Committee's main findings on key issues pertaining to the implementation of the Framework Convention in Portugal. These findings reflect the more detailed article-by-article findings contained in Section II, which covers those provisions of the Framework Convention on which the Advisory Committee has substantive issues to raise.
3. Both sections make extensive reference to the follow-up given to the findings of the monitoring of the Framework Convention, contained in the Advisory Committee's first and second Opinions on Portugal, adopted on 16 October 2006 and 5 November 2009 respectively, and in the Committee of Ministers' corresponding Resolutions, adopted on 5 September 2007 and 15 June 2011.
4. The concluding remarks, contained in Section III, could serve as the basis for the Committee of Ministers' forthcoming conclusions and recommendations on Portugal.
5. The Advisory Committee looks forward to continuing its dialogue with the authorities of Portugal as well as with representatives of national minorities and 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. The Advisory Committee would also like to bring to the attention of States Parties that on 16 April 2009, the Committee of Ministers adopted new rules for the publication of the Advisory Committee's Opinion and other monitoring documents, aiming at increasing transparency and at sharing the information on the monitoring findings and conclusions with all the parties involved at an early stage (see Resolution CM/Res(2009)3 amending Resolution (97) 10 on the monitoring arrangements under Articles 24-26 of the Framework Convention for the Protection of National Minorities).

## **I. MAIN FINDINGS**

### **Monitoring process**

6. The Advisory Committee is pleased to note that the third State Report of Portugal was submitted in a timely manner and that it provides some useful information concerning the main issues raised in the second monitoring cycle. Additional information about the implementation of the Framework Convention in Portugal was obtained by the Advisory Committee through a meeting with representatives of the Portuguese authorities and non-governmental organisations, which took place in Strasbourg on 18 September 2014.

7. The Advisory Committee deeply regrets that, for the third successive time, it was not possible to organise a visit to Portugal. It recalls that country visits are an essential element of the monitoring process that has developed in co-operation with the state parties. These visits provide the Advisory Committee with an opportunity to engage in direct exchanges with the representatives of the authorities and of national minorities, as well as to get a comprehensive view on the situation of persons belonging to minorities and of existing public policies in this respect. A visit to Portugal would have allowed for a wider consultation with the representatives of the authorities and of the minority groups potentially concerned by the application of the Framework Convention and would have afforded the Advisory Committee the opportunity to gather more detailed information on the implementation of its various provisions. The Advisory Committee expects that the next monitoring cycle will provide the opportunity for a visit to Portugal and calls on the Portuguese authorities to strengthen the dialogue in the monitoring process and in this way to be in conformity with the rest of the member states.

8. The Advisory Committee finds it regrettable that minority representatives and other non-governmental organisations were not involved or consulted in the process of preparation of the State Report. Similarly, it is disappointing that the second Opinion of the Advisory Committee on Portugal and the corresponding second Resolution of the Committee of Ministers have, to the knowledge of the Advisory Committee, not been translated into Portuguese or disseminated by the authorities. Moreover, the Advisory Committee observes that awareness of the Framework Convention seems to be very limited in Portugal, especially among persons and groups potentially interested by the protection that it offers. While taking note of the official position that the concept of national minorities does not exist in the Portuguese legal order (see remarks under Article 3 below), the Advisory Committee reiterates that the authorities should promote a better knowledge of this instrument and organise discussions on its application in Portugal, with representatives of the groups potentially concerned. It expects that the authorities will translate, publish and disseminate the present Opinion and the corresponding Committee of Ministers' Resolution and that it will launch a debate on the results of this monitoring cycle in particular, and on the Framework Convention in general, possibly in the form of a follow-up seminar.

### **General overview of the implementation of the Framework Convention after two monitoring cycles**

9. Since the adoption of the second Opinion of the Advisory Committee, the Portuguese authorities have continued their efforts to improve the situation of persons belonging to the Roma community. Steps aimed at promoting integration and raising awareness on racism and antidiscrimination have been pursued.

10. Nevertheless, the authorities have maintained their view that the protection of the Framework Convention should only be extended to the Roma and have not organised any consultations or discussions with other groups potentially concerned.

### **Anti-discrimination legislation**

11. Amendments to the anti-discrimination legislation are under debate, but the Advisory Committee has not been made aware of their scope. It hopes that these amendments will introduce the changes needed into the legislation in force, in particular so as to simplify it and speed up proceedings. Additionally, the existing legal provisions on racism and anti-discrimination continue to be rarely invoked.

### **Equal opportunities for Roma in various areas**

12. In March 2013 the Portuguese authorities adopted the National Roma Communities Integration Strategy 2013-2020. The Strategy targets four main areas: education, health, housing and employment.

13. While the authorities have continued to take steps promoting equal opportunities for Roma in society, the available information indicates that a proportion of the Roma population continues to face serious disadvantages in the area of employment, housing and education and widespread discrimination.

14. Some municipalities, such as Coimbra, have carried out successful resettlement projects, integrating the members of the Roma community in mainstream housing. However, in most places the Roma community continues to live in substandard conditions, isolated from the rest of population, without access to basic facilities. The practice of surrounding such settlements with a wall has not yet been completely eliminated.

### **Equal access to education**

15. The practice of placing Roma pupils in separate classes inevitably leads to segregation and is all the more worrying, particularly as this possibility has been recently enshrined in a legal provision allowing schools to set up classes for pupils “with similar characteristics”.

### **Combating racism and promoting respect for diversity**

16. Given the growing cultural diversity of Portuguese society, the authorities have pursued their policies to promote the integration of migrants.

17. Despite these efforts, expressions of racism and intolerance against Roma and migrants are common in the media and public discourse. The concerns and interests of the Roma population are rarely reflected in mainstream media.

18. While initiatives have been taken to improve training of the police on racism and discrimination issues, it reportedly remains difficult to have racially motivated offences recorded as such by the police.

**Participation of Roma in public affairs and in social and economic life**

19. The involvement of Roma in public affairs remains very limited. Roma representatives were only consulted to a limited extent in the preparation of the Strategy and few are included in the Advisory Group for the Integration of Roma Communities. In spite of efforts by the authorities, persons belonging to disadvantaged groups, including Roma, continue to face significant obstacles in effectively participating in social and economic life.

## II. ARTICLE-BY-ARTICLE FINDINGS

### Article 3 of the Framework Convention

#### Scope of application of the Framework Convention

##### *Recommendations from the two previous cycles of monitoring*

20. In the previous monitoring cycles, the Advisory Committee invited the authorities to disseminate information on the Framework Convention and to engage in a dialogue with persons belonging to ethnic, cultural or linguistic groups potentially concerned or interested in the protection of the Convention. The Advisory Committee also encouraged the authorities to pursue further their pragmatic approach and to continue to implement the principles of the Framework Convention in respect of persons belonging to ethnic or cultural minorities.

##### *Present situation*

21. The Advisory Committee acknowledges that the Contracting Parties have a margin of appreciation in determining the personal scope of application of the Framework Convention. It considers, however, that it is part of its duty to examine this aspect in order to ensure that no arbitrary or unjustified distinctions have been made.

22. While being fully aware of the fact that the concept of “national minority” does not exist in the Portuguese legal order, the Advisory Committee wishes to reiterate that the application of the Framework Convention with respect to a group of persons does not necessarily require its formal recognition as a national minority, a definition of this concept or the existence of a specific legal status for such groups of persons. The Framework Convention was conceived as a pragmatic instrument, to be implemented in very diverse social, cultural and economic contexts and to adapt to evolving situations. Therefore, the Advisory Committee welcomes the fact that the authorities continue to consider that the Roma constitute a specific ethnic minority<sup>1</sup> and that the protection offered by the Framework Convention is extended *de facto* to them. Nonetheless, the Committee remains concerned by the fact that the authorities have not organised any consultations or discussions on the protection offered by the Framework Convention with other groups potentially concerned<sup>2</sup> and have decided *a priori* that this protection should be extended only to the Roma.

23. The Advisory Committee welcomes the fact that the linguistic rights of persons speaking Mirandese are protected in national legislation by Law No. 7/99 on Official Recognition of Linguistic Rights of the Mirandese Community. In this context the Advisory Committee notes, however, that Portugal has not signed the European Charter for Regional or Minority Languages.

##### *Recommendations*

24. The Advisory Committee invites the Portuguese authorities to engage in a dialogue with persons belonging to ethnic, cultural or linguistic groups living in Portugal about possible protection under the Framework Convention.

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<sup>1</sup> The estimated number of Portuguese Roma is 40 000 to 60 000, according to the National Roma Communities Integration Strategy 2013-2020 and the information provided in the state report. There are no reliable data as to the number of migrant Roma residing in Portugal.

<sup>2</sup> Other ethnic, cultural or linguistic groups include, according to the information of the Advisory Committee, persons belonging to the Mirandese-speaking community and groups resulting from immigration in Portugal.



25. The Advisory Committee invites the authorities to start a dialogue with the Mirandese community with a view to finding appropriate solutions for strengthening the existing protection and promotion of the Mirandese language, culture and heritage, including by considering a possible extension of the protection offered under the Framework Convention and also by signature and ratification of the European Charter for Regional or Minority Languages.

## **Article 4 of the Framework Convention**

### **Legislative and institutional framework against discrimination**

#### *Recommendations from the two previous cycles of monitoring*

26. In the previous monitoring cycles, the Advisory Committee urged the authorities to take steps to increase the effectiveness and accessibility of domestic remedies to respond to complaints of racial discrimination, as well as to ensure the effective independence of the complaints body itself. It specifically asked that measures be taken to process the backlog of discrimination complaints which were pending before the office of the High Commissioner for Immigration and Intercultural Dialogue (ACIDI).

#### *Present situation*

27. The Portuguese legal and institutional framework for combating discrimination comprises several provisions. Racial discrimination is a crime, according to the Portuguese Criminal Code (Article 240). In 2010-2012, 21 crimes of racial discrimination were recorded. Apart from this, racial discrimination can also be subject to an administrative procedure, before the Commission for Equality and Against Racial Discrimination (CEARD). Discrimination in relation to work is prohibited by the Labour Code and complaints are analysed by the Authority for the Conditions of Work. In all cases of discrimination, complaints can also be submitted to the Portuguese Ombudsman.

28. According to the information available to the Advisory Committee, it appears that the administrative complaints mechanism for racial discrimination has largely remained unchanged and stands as described by the Advisory Committee in its second Opinion on Portugal. The complaints are submitted to the CEARD, chaired by the High Commissioner for Immigration and Intercultural Dialogue, and are forwarded for investigation to inspection bodies placed under the different ministries. The resulting report is sent to the CEARD, which issues an opinion, while the final decision is taken by the High Commissioner.

29. According to the authorities, in 2010-2012, 83 administrative complaints of racial discrimination were submitted. However, according to the information available to the Advisory Committee, financial sanctions were applied only in two cases. According to the information received, one of the persons sanctioned in the cases mentioned above – the owner of a bar having banned persons belonging to the Roma community from entering his establishment – allegedly declared that regardless of the fine, he will not give Roma access to his premises.

30. It has become apparent that, the procedure followed so far is ineffective<sup>3</sup>, due to the complexity of the system and covers only racial discrimination. In those cases where racial discrimination is also a crime the jurisdiction is limited. The Advisory Committee considers that, in view of the poor results so far, the law requires amendment in such a way as to give the right to any person to apply to a court by a simple, inexpensive and speedy procedure with a

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<sup>3</sup> See also ECRI, 4<sup>th</sup> report on Portugal, paragraphs 30-38.

view to claiming compensation, annulment of an administrative act and/or an order to a public organ to make a decision in a case where human rights have been contravened generally. Such a procedure should be an alternative to the existing remedies available.

31. The Advisory Committee further notes that questions with respect to the independence of the bodies involved remain, as the investigations in individual cases are carried out by bodies subordinated to different ministries. Moreover, the CEARD and the High Commissioner do not have the right to investigate, initiate, or participate in court proceedings<sup>4</sup>.

32. The Advisory Committee further notes that the low number of complaints lodged by victims of discrimination with the CEARD was explained by its interlocutors by a lack of awareness in the existing mechanisms, a lack of confidence in the justice system or in some cases, a lack of financial means.

33. In this context, the Advisory Committee welcomes information that the national anti-discrimination legislation is currently under revision. The Advisory Committee considers that this opportunity should be seized to remedy the existing shortcomings in legislation and practice and to make the necessary changes in order to improve the mechanism for responding to complaints of discrimination<sup>5</sup>.

#### *Recommendation*

34. The Advisory Committee invites the authorities to proceed swiftly with amendments to the legislation that would bring it in line with the previous recommendations and the existing best practices in the field. In particular the authorities should seek to simplify and speed up proceedings. In the meantime, the Advisory Committee urges the authorities to continue raising awareness about the existing anti-discrimination legislation and available avenues of redress.

### **Measures to promote full and effective equality**

#### *Recommendations from the two previous cycles of monitoring*

35. In the previous monitoring cycles, the Advisory Committee encouraged the authorities to develop further positive measures to promote full and effective equality for Roma, while ensuring that these measures were fully mainstreamed into social and other policies.

36. The Advisory Committee further called on the authorities to collect specific information on the social, economic and educational situation of Roma, with a view to improving the efficiency of policies targeting them.

#### *Present situation*

37. In March 2013 the Portuguese authorities adopted the National Roma Communities Integration Strategy 2013-2020, in the framework of the EU national strategies for Roma integration. The Strategy targets four main areas: education, health, housing and employment. An Advisory Group for the Integration of Roma Communities (CONCIG), coordinated by the High Commissioner for Immigration and Intercultural Dialogue, was set up in June 2014. In this context, the Advisory Committee welcomes the information that four representatives of the Roma communities have been co-opted/invited to take part in the work of CONCIG. On the other hand, the Advisory Committee notes with regret that according to various interlocutors of

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<sup>4</sup> See also ECRI, 4<sup>th</sup> report on Portugal, paragraph 43.

<sup>5</sup> See also ECRI, 4<sup>th</sup> report on Portugal, paragraph 38.

the Advisory Committee, the consultation with the Roma representatives during the preparation of the Strategy was not adequately carried out. The Advisory Committee considers that lack of appropriate consultation with the representatives of the primary stakeholders and beneficiaries compromises the chance of successful implementation of the Strategy from the outset and demonstrates a paternalistic approach of the authorities towards Roma.

38. As the implementation of the National Roma Communities Integration Strategy is only in its initial phase, it is too soon for the Advisory Committee to evaluate its impact in practice. It notes however that according to available information the funding earmarked for the Strategy may not be adequate to the task. The Advisory Committee is concerned that, according to the information available, Roma still face discrimination in several areas of life, such as employment, housing and education (see further comments under the respective Articles below). The Advisory Committee also notes that, according to the evaluation of the European Commission, the Strategy should still include the following: more focus on desegregation and on responding to specific needs of the Roma in mainstream policies; more attention to the recent economic and social transformations and their consequences; further work on monitoring progress in implementation and in health outcomes; concrete measures to provide non-discriminatory access to housing; a calendar, targets, indicators, budget, in order to secure effective implementation<sup>6</sup>.

39. As far as data collection is concerned, one of the priorities of the Strategy is to carry out a survey of the socio-economic situation of the Roma communities. The authorities expect to complete it by the end of 2014. The Advisory Committee welcomes this development, which it considers a necessary step towards better designing and implementing policies targeting the Roma.

40. The Advisory Committee notes with satisfaction that one of the Strategy's objectives is to promote gender equality within the Roma community, by promoting women's professional skills which are considered as essential conditions for women's empowerment, both within Roma communities and in society as a whole.

#### *Recommendations*

41. The Advisory Committee calls on the authorities to continue developing positive measures to promote full and effective equality for Roma, including gender equality, and to implement them effectively, in all areas of life. Such measures, including the National Roma Communities Integration Strategy, should be adequately financed and due consultation should take place with the stakeholders at all stages of preparation, implementation and evaluation.

42. The Advisory Committee encourages the authorities to extend the systematic collection of data and information on the situation of the Roma in all fields of daily life, in line with international standards in the field of personal data collection.<sup>7</sup>

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<sup>6</sup> Good Practices Database Newsletter No. 1, p. 6

[http://goodpracticeroma.ppa.coe.int/sites/default/files/cover\\_newsletter\\_en\\_0.pdf](http://goodpracticeroma.ppa.coe.int/sites/default/files/cover_newsletter_en_0.pdf)

<sup>7</sup> See: Committee of Ministers' Recommendation No. (97) 18 and the Council of Europe Convention ETS 108 for the Protection of Individuals with regard to Automatic Processing of Personal Data as well as the recommendations of the United Nations Economic Commission for Europe prepared in co-operation with the Statistical Office of the European Communities.

## **Article 5 of the Framework Convention**

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

#### *Present situation*

43. Steps have been taken by the Portuguese authorities to promote Roma culture. Each year the High Commissioner for Immigration and Intercultural Dialogue marks the International Roma Day (8 April) and the National Roma Day (24 June). In 2013 the Portuguese authorities, in co-operation with the Spanish authorities, organised the exhibition “Romani Lives” in the city museum of Lisbon. Roma culture was also one of the topics discussed at the first Roma Women National Meeting in 2013 and the first Roma Youth and their Families National Meeting in 2014. Municipalities such as Idanha-a-Nova, Torres Vedras, Abrantes or Espinho also organise events promoting Roma Culture. The National Roma Communities Integration Strategy foresees several training or awareness actions regarding Roma history and culture.

#### *Recommendation*

44. The Advisory Committee calls on the authorities to adopt a more structured approach in promoting Roma culture as part of Portuguese society, with a view to giving a sustainable basis to these activities, in close consultation and cooperation with the persons concerned.

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

### **Integration and tolerance**

#### *Recommendations from the two previous cycles of monitoring*

45. In the previous monitoring cycles, the Advisory Committee encouraged the authorities to pursue their ongoing efforts to combat racism and intolerance and to promote integration of all groups in society. It invited the authorities to pay particular attention to manifestations of hostility against Roma, asking that they be effectively investigated and sanctioned.

46. In addition, the Advisory Committee recommended that more resolute steps be taken to ensure the sustainability of projects of socio-cultural mediation and that the status of socio-cultural mediators<sup>8</sup> be strengthened.

#### *Present situation*

47. The Advisory Committee is concerned by the information received indicating that expressions of racism and intolerance against Roma are frequent in society as a whole, and in particular in the media and occasionally in the political arena. In fact, Roma continue to face frequent manifestations of hostility in various spheres of life, including denial of access to public places, such as bars and shops. According to the Advisory Committee’s interlocutors racist and intolerant statements have been made during TV programmes. The trend towards increasing intolerance and racism is worrying in particular on the Internet and in social media. Moreover, the Advisory Committee has been informed that the school curriculum does not adequately present the cultural heritage of the Roma or their contribution to the Portuguese

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<sup>8</sup> The work of Roma socio-cultural mediators is aimed at improving Roma communities’ access to services and at promoting integration and communication between the Roma community and others. See also ECRI, 4<sup>th</sup> report on Portugal, paragraph 117.

society and culture. On the contrary, the textbooks present a stereotypical image of the Roma community.

48. As far as socio-cultural mediation is concerned, it has been brought to the attention of the Advisory Committee that at present there is no legal framework regulating the work of social mediators. Nevertheless, ACIDI has launched a pilot project for training municipal Roma mediators, aimed at training and placing 15 Roma mediators in 18 municipalities. According to the National Roma Communities Integration Strategy, this project should be extended to at least 50 municipalities and at least 80 mediators should be trained by 2020. The Advisory Committee welcomes these steps.

49. Notwithstanding the positive measures referred to above, the Advisory Committee notes with regret that at present a high number of the existing mediators are not currently employed. It appears that mediators were able to carry out their activity only while the central authorities covered the related costs. Their employment contracts were not renewed, allegedly due to financial constraints, when the costs were completely transferred to the local authorities.

50. In recent years there has been substantial immigration to Portugal from its former colonies, but also from other European states. In this respect, the Advisory Committee considers that steps should be taken to increase general awareness about the growing diversity of Portuguese society.

#### *Recommendations*

51. The Advisory Committee urges the authorities to strengthen their efforts to combat all forms of racism and intolerance, to avoid marginalisation, stigmatisation and rejection and to promote integration of all groups in society. Inter alia, all expressions of racism or intolerance must be firmly condemned and effectively prosecuted and sanctioned.

52. The Advisory Committee encourages the authorities, in close consultation with the Roma community, to identify sustainable solutions ensuring long-term functioning of socio-cultural mediation. The Portuguese authorities should identify solutions, including financial support, to allow the mediators to continue their work.

### **Combating intolerance against Roma**

#### *Recommendations from the two previous cycles of monitoring*

53. In the previous monitoring cycles, the Advisory Committee urged the authorities to take, as a matter of priority, vigorous measures to put an end to the practice, carried out by some municipalities, of separating Roma from the majority population by means of walls or fences.

54. The Advisory Committee also urged the authorities to investigate without further delay the situation of those Roma who are compelled to move constantly from place to place, with a view to identifying measures to solve the problems facing these persons.

#### *Present situation*

55. The Advisory Committee notes with considerable regret that the practice of separating Roma from the majority population by means of walls or fences has not been fully eliminated. According to the available information, the wall surrounding the Roma settlement in the city of Beja, which the Advisory Committee already commented in its second Opinion, is still in place, although it has been lowered. The local authorities are apparently willing to remedy the situation

and some steps, such as employing a mediator, have been taken. However, according to Roma representatives the difficult financial situation of the municipality has a negative impact on any foreseen measures.

56. The Advisory Committee reminds the authorities<sup>9</sup> that constructing walls, irrespective of their height, results in segregation (both physical and symbolic) of the Roma population and is contrary to the principles of the Framework Convention. Increased efforts are needed on the part of the authorities to put an end to such practices immediately.

57. The Advisory Committee also underlines that prejudice and intolerance are also reflected and further fuelled by the continued practice of settling Roma in areas outside the towns, in inadequate housing conditions and without access to basic facilities (see Article 15 below). This in turn reinforces the stereotypes which are reflected in society as a whole and contribute to creating rather than solving the problem. The Advisory Committee is concerned by the discrimination in access to public services that continues to affect Roma, as many settlements are denied access to water or electricity.

58. It is with deep regret that the Committee notes that some Roma are compelled by the local authorities to move constantly from place to place. This unacceptable situation is primarily due to the fact that Portuguese legislation does not contain provisions concerning the obligation to provide stop-over facilities (halting sites), and municipalities evict Roma arriving in the area under their responsibility, using threats of legal action for trespassing and illegal parking.

#### *Recommendations*

59. The Advisory Committee strongly urges the authorities to take immediate measures to put an end to the practice, carried out by some municipalities, of separating Roma from the majority population by means of walls or fences and to effectively investigate and sanction as appropriate all allegations of discrimination in the provision of public services.

60. The Advisory Committee also strongly urges the authorities to take measures as a matter of urgency aimed at solving the situation of those Roma who are compelled to move constantly from place to place.

### **Portrayal of minorities in the media**

#### *Recommendations from the two previous cycles of monitoring*

61. In previous monitoring cycles, the Advisory Committee called on the Portuguese authorities to pursue and step up their efforts to combat the dissemination of stereotypes and prejudices against persons belonging to ethnic minorities, and in particular asked that the supervisory organs of the media effectively monitor the situation in this field and work on preventing such practices.

62. The Advisory Committee also encouraged the authorities to find ways of promoting the dissemination by the media of unbiased and quality information on ethnic minorities and cultural diversity in general, in close co-operation with representatives of the groups concerned, and in particular the Roma.

#### *Present situation*

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<sup>9</sup> See also ECRI, 4<sup>th</sup> report on Portugal, paragraph 108.

63. The Advisory Committee notes that the Portuguese authorities organised in 2010-2012 seven training sessions for journalists on media, immigration and diversity and five training sessions on asylum and refugees, in the context of increased migratory flows. Guidelines on how to deal with the topic of immigration and ethnic minorities were discussed during a forum organised by the Reflection Group on Media and Migration (set up by the Office for Media and ACIDI), bringing together authorities, media representatives and civil society organisations. The Portuguese public television drafted a Code of Ethics on the basis of the Diversity Toolkit for factual programmes in public service television, produced by the EU Agency for Fundamental Rights. Further information on media and diversity and on the Council of Europe recommendations in this respect are available on the website of the Office for Media.

64. Nevertheless, the Advisory Committee has been informed that media continue to pursue a sensationalist approach and promote a negative image of, as well as stereotypes about, Roma and migrants.

*Recommendation*

65. The Advisory Committee urges the Portuguese authorities to make more resolute efforts to combat the dissemination of racism and stereotypes in the media.

**Combating hate crime**

*Recommendations from the two previous cycles of monitoring*

66. In the previous monitoring cycles, the Advisory Committee urged the authorities to take resolute measures to improve the relations between the police and Roma, in particular by promoting the role of socio-cultural mediators. It also asked that police training in the field of human rights and intercultural relations, including police relations with minority communities, be pursued on a regular basis and expanded substantially. Furthermore it asked that all reported cases of police misconduct be effectively investigated and, if confirmed, sanctioned.

*Present situation*

67. The Advisory Committee notes that the National Republican Guard provides training on human rights and raises awareness on issues related to racism, non-discrimination or legislation regarding racist offences. The School of the Guard addresses these issues in training and promotion or specialisation courses, within topics such as “Fundamental Rights”. The Masters Course in Police Science of the Public Security Police and its training courses for agents include topics related to human rights. The Training Division of the Directorate General for the Administration of Justice also deals with issues related to the rights of persons belonging to minorities. The Advisory Committee is however not aware how many police agents and employees have in fact participated in such training.

68. Furthermore, the Advisory Committee notes that the National Republican Guard has continued its cooperation with the Centre for Study of Social Integration in training Roma mediators and pursued the project *Local Security Interlocutor*, while aiming to involve the Roma community in this project. The Public Security Police participates in the Local Safety Audits, at regional level, and in the Integrated Programme of Proximity Policing. The Foreign and Borders Service has also carried out awareness-raising activities.

69. As far as the proceedings in police misconduct cases on the grounds of discrimination are concerned, the General Inspectorate of Internal Administration instituted six proceedings in

2011 and 2012 and two in the first quarter of 2013. It is not clear, however, what proportion of all cases these eight cases of alleged discrimination constitute, nor what the outcome has been.

*Recommendation*

70. The Advisory Committee encourages the authorities to pursue and strengthen their efforts to improve relations between the police and Roma, and to promote the role of socio-cultural mediators. Police training in the field of human rights and intercultural relations, including police relations with minority communities, should be further pursued.

**Article 12 of the Framework Convention**

**Roma in the educational system**

*Recommendations from the two previous cycles of monitoring*

71. In the previous monitoring cycles, the Advisory Committee urged the authorities to put an end to practices of placing Roma pupils in separate classes and asked that measures be taken to promote further their integration into mainstream schools. It recommended in this context that the role of school mediators be promoted and their status clarified.

72. The Advisory Committee further asked that steps be taken to develop intercultural teaching at school.

*Present situation*

73. The Advisory Committee notes with concern the practice of setting up Roma-only classes, in order to promote the access to education of Roma girls, who would have otherwise dropped out.<sup>10</sup> This remains, according to the authorities, an exceptional measure to be applied only in very specific circumstances. The Advisory Committee took note with concern of a new regulation allowing schools to set up classes comprising pupils “with similar characteristics”. Although the authorities underline that this possibility will be used on a case-by-case basis and only as a last resort, the Advisory Committee considers that it offers a legal basis for the segregation of Roma children, which is clearly contrary to the principles of the Framework Convention.

74. The Advisory Committee underlines that the separation of pupils on the basis of their ethnic origin is incompatible with the principles of the Framework Convention.<sup>11</sup> Roma children should be integrated in schools and classes that are also attended by pupils from the majority population. The Advisory Committee is of the view that alternative solutions should be found to encourage Roma girls to continue education, in co-operation with the Roma community.

75. The Advisory Committee was also informed that tests carried out before school admission are not adapted to specific situations and a disproportionate number of Roma children are often identified as having cognitive problems.

76. The Advisory Committee notes with satisfaction that the fourth phase of the *Choices* programme (2010-2013), dedicated to children and young people from disadvantaged backgrounds has enabled the funding of 130 projects involving schools, local authorities and

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<sup>10</sup> See also ECRI, 4th report on Portugal, paragraphs 92-93.

<sup>11</sup> See also judgments of the European Court on Human Rights, for instance: *Orsus v. Croatia*, application no. 15766/03, judgment of 16 March 2010, *DH v. the Czech Republic*, application no. 57325/00, judgment of 13 November 2007, and *Sampanis and others v. Greece*, application no. 32526/05, judgment of 5 June 2008.



NGOs, with a total amount of 38 million euros. Furthermore, the National Roma Communities Integration Strategy sets as objectives in the field of education guaranteed access to pre-school education, an increased level of completion of compulsory schooling for Roma children and the prevention of school dropout.

77. Regarding intercultural education, the information available to the Advisory Committee shows that school textbooks offer no information about the Roma history, cultural heritage and language or promote a stereotyped image of Roma.

#### *Recommendations*

78. The Advisory Committee strongly urges the Portuguese authorities to put an end to practices of placing Roma pupils in separate classes and to identify immediate solutions promoting their integration in mainstream schools, making use of school mediators if necessary. Appropriate solutions should be identified to prevent absenteeism and early dropout from school of Roma children, in particular girls.

79. The Advisory Committee encourages the authorities, in consultation with representatives of civil society, to take appropriate steps to develop intercultural teaching in schools.

### **Article 15 of the Framework Convention**

#### **Consultation mechanisms**

#### *Recommendations from the two previous cycles of monitoring*

80. In the previous monitoring cycles, the Advisory Committee urged the authorities to identify ways of improving participation of persons belonging to the Roma minority in public affairs. In particular, it called on the authorities to re-establish as soon as possible a formal structure for dialogue with and consultation of persons belonging to the Roma minority. It also asked that further measures be taken to improve co-ordination, at all levels, of policies and projects to improve the situation of Roma and that Roma be effectively engaged in the elaboration of such projects, especially at the local level.

81. The Advisory Committee also encouraged the authorities to find ways of creating conditions conducive to a better participation of Roma in elections and in elected bodies, in particular by means of awareness-raising activities in the Roma community and the majority population.

#### *Present situation*

82. The Advisory Committee notes that Advisory Group for the Integration of Roma Communities (CONCIG), set up in June 2014, includes four representatives of the Roma community. One Roma representative is also a member of the Commission for Equality and against Racial Discrimination.

83. The Advisory Committee is pleased to note that the Portuguese authorities have increased the number of Roma representatives in CONCIG from the planned number of two to four. However, according to the interlocutors of the Advisory Committee, it seems that the effective participation of these representatives in the work of the Advisory Group is hampered by practical shortcomings. The Advisory Committee was informed, for example, that representatives have difficulties travelling to Lisbon to the meetings, due to financial constraints.

As regards as the Commission for Equality and against Racial Discrimination, the Advisory Committee noted already that its role in the complaints procedure remains rather limited.

84. At present there is no person belonging to the Roma community in the office of the High Commissioner for Immigration and Intercultural Dialogue (ACIDI), including in the team dealing with issues related to this community. The Advisory Committee was moreover informed that Roma representatives were not adequately consulted in the drafting process of the National Roma Communities Integration Strategy.

*Recommendation*

85. The authorities should further strengthen the existing consultative mechanisms between the authorities and the Roma in order to ensure effective participation of the latter in decision-making on issues of concern to them.

**Participation of Roma in socio-economic life**

*Recommendations from the two previous cycles of monitoring*

86. In the previous monitoring cycles, the Advisory Committee called on the authorities to take vigorous measures to improve the living conditions of those Roma who live in substandard housing, with the full consultation and involvement of persons concerned at all stages of the projects.

87. The Advisory Committee invited the authorities to address the problems facing those Roma who were compelled to move from place to place. It also invited the authorities to take more resolute measures to clarify the legal framework regulating itinerant trade and encouraged them to design measures to promote sustainable alternatives to itinerant trade and selling on market places and fairs, in close co-operation with Roma representatives and based on their needs.

*Present situation*

88. The Advisory Committee notes with deep concern that the majority of Roma continue to live in substandard or inadequate housing conditions, in remote areas, outside towns, without access to public transport or basic facilities. According to the information made available to the Advisory Committee, in some cases, such as Rio Maior, the Roma settlement is located on a former industrial site, lacking access to water or electricity. The Advisory Committee is particularly worried that in Vidigueira access to water supply was denied and the settlement was then demolished in June 2014, with no alternative housing solutions having been proposed.

89. The Advisory Committee is pleased to note the positive examples of cities such as Coimbra, where the municipality offered housing to Roma in existing neighbourhoods in the city, thereby integrating them in the local communities instead of separating them. Reportedly, this had a positive effect on the Roma families concerned and the local communities as a whole. Such examples should be followed by other Portuguese municipalities.

90. The Advisory Committee regrets to note that no solutions have been found to the problems facing those Roma who were compelled to move from place to place. These Roma are faced with additional problems arising from their having to move constantly, such as access to education for their children or access to employment and health care.

91. The Advisory Committee notes that the authorities have continued to implement long-term programmes to improve access of persons belong to disadvantaged groups, including Roma, to the labour market. The National Roma Communities Integration Strategy also sets out objectives promoting access to the labour market.

92. Despite these efforts, no solutions have been yet identified to promote sustainable alternatives to itinerant trade and selling at markets and fairs. As noted by the Advisory Committee in its second Opinion, a uniform legal framework regulating itinerant trade at local level is absent. This results in a lack of clarity and legal certainty as regards the rules prevailing locally. Also there have been no developments with regard to support for self-employment and the setting up of small businesses, which could constitute alternatives to itinerant trade and working at fairs and markets.

#### *Recommendations*

93. The Advisory Committee calls on the authorities to step up their policies and programmes to promote the access of Roma to the labour market. This should be done on the basis of careful evaluation of current programmes and in close co-operation with Roma organisations and representatives.

94. The Advisory Committee reiterates its call on the authorities to clarify the legal framework regulating itinerant trade and also promote sustainable employment alternatives, in close co-operation with Roma representatives and based on their needs.

95. The Advisory Committee reiterates its call on the authorities to reinforce measures to improve the living conditions of those Roma who live in substandard housing, drawing on existing positive experiences, with full consultation and involvement of persons concerned at all stages of the projects.

### **III. CONCLUSIONS**

96. The Advisory Committee considers that the present concluding remarks could serve as the basis for the conclusions and recommendations to be adopted by the Committee of Ministers with respect to Portugal.

#### **Positive developments following three cycles of monitoring**

97. Portugal has continued to pay attention to the situation of persons belonging to minorities. Projects to promote intercultural dialogue and to combat racial discrimination and racism have been implemented. Measures to facilitate the inclusion of migrants and integration of society have continued to be developed.

98. In March 2013 the National Roma Communities Integration Strategy 2013-2020, targeting education, health, housing and employment, was adopted. An Advisory Group for the Integration of Roma Communities (CONCIG), coordinated by the High Commissioner for Immigration and Intercultural Dialogue, was set up in June 2014, including four representatives of Roma communities. One of the priorities of the Strategy is to carry out, by the end of 2014, a survey of the socio-economic situation of the Roma communities.

99. Further measures to tackle difficulties facing persons belonging to the Roma minority have been taken, particularly at the local level. Certain municipalities have developed good practices in the field of housing of Roma families. Projects developing and supporting the work of socio-cultural mediators have been implemented and are foreseen to continue.

100. The High Commissioner for Immigration and Intercultural Dialogue has pursued activities combating discrimination and promoting respect for diversity. Policies to support the integration of migrants in society and promote tolerance and intercultural dialogue continue to be implemented.

#### **Issues of concern following three cycles of monitoring**

101. Serious shortcomings persist concerning domestic remedies in cases of racial discrimination. The complaints mechanisms, including recourse to litigation procedure, lack efficiency and it seems that there is widespread lack of awareness on the right to lodge complaints of discrimination. Also there is a lack of confidence as to the outcome of such procedures.

102. Despite the programmes and projects implemented over the last years, Roma continue to face widespread discrimination in access to employment and housing and in the education system. Part of the Roma population continues to live in substandard housing conditions, generally in separated settlements, sometimes still surrounded by walls. Some Roma are compelled to move constantly from place to place, due to insufficient provision of stop-over facilities (halting sites). Moreover, denial of access to public places and other manifestations of discrimination are regularly reported. No solution has yet been identified to promote sustainable alternatives to itinerant trade and selling at markets and fairs.

103. School admission tests are not culturally sensitive to Roma children and a disproportionate number of them are purported to have cognitive and learning difficulties. Roma pupils are also sometimes placed in separate classes.

104. There continues to be a lack of knowledge and awareness of the Roma culture, identity and history as part of Portuguese society. School textbooks in particular still lack adequate information in this respect. Some media continue to spread stereotypes about Roma.

105. The consultation mechanisms available to Roma representatives have unclear competencies and powers. The National Roma Communities Integration Strategy was drafted without appropriate participation of Roma representatives.

### **Recommendations**

106. In addition to the measures to be taken to implement the detailed recommendations contained in Sections I and II of the Advisory Committee's Opinion, the authorities are invited to take the following measures to improve further the implementation of the Framework Convention:

#### **Issues for immediate action**<sup>12</sup>

- review the mechanisms for responding to complaints of racial discrimination, and in particular develop further positive measures to promote full and effective equality and significantly increase their impact;
- take resolute measures to put an end to discrimination against Roma in access to adequate education, housing, employment and health care facilities;
- take vigorous measures to put an end to the practice of placing Roma pupils in separate classes; identify measures to prevent absenteeism and early dropout from school of Roma children, in particular among girls;

#### **Further recommendations:**

- take steps, in close consultation with the Roma community, to include in school textbooks information on their history, cultural heritage and language and eliminate stereotyped images of Roma in educational materials; raise public awareness about Roma being an integral part of Portuguese society;
- strengthen the mechanism of consultation of persons belonging to the Roma community, in particular in areas affecting them;
- take more vigorous measures to meet the housing needs of Roma; increase the provision of halting sites, including by improving coordination of the different levels of authorities involved in site provision;
- clarify the legal framework regulating itinerant trade and also promote sustainable employment alternatives, in close co-operation with Roma representatives and based on their needs.

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<sup>12</sup> The recommendations below are listed in the order of the corresponding articles of the Framework Convention.