

APPENDIX: GOVERNMENT'S VIEWPOINT

The following appendix does not form part of ECRI's analysis and proposals concerning the situation in Portugal

ECRI, in accordance with its country monitoring procedure, engaged in confidential dialogue with the authorities of Portugal on a first draft of the report. A number of the authorities' comments were taken on board and integrated into the report's final version (which only takes into account developments up until 22 March 2018, date of the examination of the first draft).

The authorities also requested that the following viewpoint be reproduced as an appendix to the report.

OBSERVATIONS MADE BY THE MINISTRY OF HOME AFFAIRS (MINISTÉRIO DA ADMINISTRAÇÃO INTERNA - MAI) TO THE FINAL REPORT OF THE ECRI'S VISIT TO PORTUGAL IN 2017

3. Racist and homo/transphobic violence

Police brutality

On this issue, the Public Security Police (PSP) mentions the following:

“The European Commission Against Racism and Intolerance (ECRI) report, concerning its visit to Portugal from 13 to 17 November 2017 (hereinafter referred to as the "Report"), focuses, between §53 and §67, on the performance of the LEA in Portugal. It mainly concerns reports involving police officers of Public Security Police (PSP), allocated on Police Stations with responsibilities in neighborhoods inhabited mostly by citizens of African origin.

PSP begins by expressing its astonishment and indignation at the references and recommendations presented by ECRI in this Report:

- Astonishment, because PSP responded with solid information, both to the initial requests and to the questions subsequently formulated by ECRI when preparing the visit, and much of those contributions are omitted in this Report. This information was confirmed and explained at the meetings and subsequent visit by the ECRI delegation. In the final debriefing made on November 17, none of the references or recommendations presented was about the performance of PSP, so such an unfavorable assessment is completely inconsistent with the outcome of the meetings held until November 17;
- Indignation, for neglecting the continuous effort that PSP has been developing in these 5 years, with governmental and non-governmental institutions, in the defense of human rights in Portugal and that, regrettably, ECRI chooses to ignore almost completely in this evaluation. PSP had hoped to see the enormous dynamic that it has impressed on Portuguese society in this regard, and on the contrary, this Report has produced profoundly discouraging assessments, based on subjective interpretations of isolated episodes.

PSP is forced to start by putting simple but relevant question: - what period is being evaluated? The Report, although it refers in its introductory note that is a procedure of the fifth cycle of evaluations - that took place between November 2012 and November 2017- chooses to vary its periods of analysis at incomprehensible time tables. The Report go back to mediated facts with approximately 30 years, referring mixt information since 1990's, presents references between 2000 to 2009 and also include references between 2002 to 2013 (see §56), in what it seems to be a forced argument to sustain a negative perspective that supports the idea that PSP is a violent LEA.

Although it intends to carry out an evaluation of the evolution of the Portuguese State since 2012, the Report, with regard to the LEA, focuses almost exclusively on a situation in the Bairro Alto of Cova da Moura. The Report relies mainly on news reports issued by the media and in an open letter signed by a minority of civil organizations.

Specifically with regard to PSP, it is regretted that the title of the only subchapter that stresses its work, focuses only on excessive use of force and uses the expression "police brutality". This subtitle expresses a prior moral judgment and an inadequate subjective charge. Such an option is evident in the wording and structure of the document, by providing 7 remarks that try to sustain these episodes, and reserve only 1 to summarize all the arguments sustain by PSP to explain it all. Worse, the Report chooses to relegate or omit the information that ECRI itself requested and obtained from the PSP in response to its own questions, which would demonstrate the clear commitment of the PSP to work closer to the community. That, for us, is such not understandable as unacceptable, specially coming from an European Councils committee.

This ECRI's approach is still evident in the wording of §53 and §54, in which a clearly subjective and partial characterization of the actors in the case is made. Moreover in §54, ECRI appears to consider common that someone who self-nominate mediators and members of a local association, force their access to a police station - where they are people and goods that need to be protected - under the pretext of protecting them. PSP does not believe that there is a single place in the world where this procedure would be allowed, so agreeing with it - or simply not condemning it - is to promote disorder and chaos and that, of course, is shocking.

PSP also regrets that, if ECRI had doubts about PSP's true involvement with the most fragile communities, it would listen to the testimonies of some of the more than 300 other community associations - in addition to the 16 who signed the document referred to in §56. If that was made, ECRI would clearly understand that the majority of the associations actually choose to work in true partnership for the respect and promotion of human rights, and for that the LEA contribution is very important, in Portugal as in all the countries.

ECRI should also have listened to the school boards that, since the 80's, have been promoting with LEA the security and citizenship as the highest values of a State of Right, in one of the most old and successfully criminal prevention programs in Europe. It could start by those in Bairro Alto da Cova da Moura, or in Amadora's municipality, or any other of the 3350 Schools in all over the country under the PSP's duty to protect. Unfortunately, ECRI choose to ignore all that.

As a different alternative, this report could have considered to collect the evaluation of a large number of private federations and other non-governmental organizations, that whit PSP have been working to promote the rights and protection of the most vulnerable, such as children, elderly people and people with disabilities (who are also victims of discrimination for a variety of reasons).

One of the most clear evidence that PSP works very well with minority communities is that, in a country with a recognized multiculturalism with citizens of so many countries like Cape Verde, Angola, Mozambique, Guinea, Brazil, China, Ukraine, Bangladesh, Pakistan, Senegal, among many others, the great majority of complaints made against the PSP's actions are limited to the work of the Policemen of the Alfragide Police Station and the surrounding Cova da Moura neighborhood. Since PSP is a national police force, with similar operational procedures throughout the country, there is no difference in the police action carried out in Alfragide or in the other hundreds of neighborhoods, inhabited mostly by minority communities, but which do not present episodes of conflict with the Police. The Report argues, between §60 and §62, that this case reflects an institutional policy of racism and intolerance; the PSP emphasizes that it is precisely because this is a practically isolated case, that it is clear that the problem is not the Police or the policeman, or the inhabitants of these neighborhoods.

With Portugal rated among the 3 or 4 safest countries in the world, PSP believes that it would be impossible to contribute to this sense of tranquility, security and public peace, if PSP presented itself as a violent or repressive police. This safety feeling is unanimously present in Portuguese cities, and certainly the ECRI delegation itself confirmed during its visit in November 2017.

The Report (see §56 to §60) supports the idea that all cases involving the use of force by the police are aggressions or other more serious crimes (of course knowing that they may result from the legitimate use of force) and they are racially motivated (if the victim is someone from a different ethnic background). This conviction could only be sustained, if ECRI had chosen to minimize the extensive preventive work that PSP has developed, aiming for a better interaction with minority communities. Unfortunately, this seems to be the case.

In §66 the report recommends an increase in the Security Forces' effort to approach and work with communities, even though it has recognized it in §45. Unfortunately the Report chooses not to mention what was observed in the visits made - where it heard from the representatives and witnessed - a harmonious relationship between the community of Cova da Moura, the great majority of the NGOs that work there in the defense of the rights human rights. PSP does not understand why the Report chose, again, to hide this information.

Despite this evaluation, PSP will continue to strengthen community relations - because this is the institutional strategy implemented since 2006. PSP regrets that ECRI has again chose to omit from its Report the information sent, concerning another national initiative to improve knowledge and relationships with these communities, the "Together for All" Program. In the last 1st July 2016, PSP firmed a National Protocol with the High Commissariat for Migrations (Alto Comissariado para as Migrações - ACM IP), with the homologation of which Minister, to the implementation of the Program "JUNTOS POR TODOS" ("Together for All").

This Program is reinforcing knowledge and skills of ACM professionals, I.P. in particular those allocated to "Program Escolhas", Centres for Immigrants Support and Information (Centros de Atendimento e Apoio ao Imigrante - CLAI), Immigrant Associations and Municipal Intercultural Mediators, and also on the attributions, organization and intervention of PSP, as well as the knowledge and skills of its officers, in subjects as migration, cultural diversity and intercultural dialogue. PSP will cooperate in the care and referral of migrant citizens and / or cultural communities, providing that specific communication and information tools will be accessible to all citizens in its competence area, regardless of their nationality or cultural affiliation.

In turn, the ACM, I.P. will provide training to PSP officers on the migratory phenomenon in Portugal, the national and cultural groups residing in national territory, the theme of diversity and intercultural dialogue (stereotypes, discrimination and ways of dealing with different cultures), foster the integration of the PSP into the consortia of the 6th generation projects of the "Program Escolhas", speeding up local cooperation, supported in real (with training and contract) mediators.

The remark expressed in §66 shows that ECRI did not take into account the information that PSP provided in response to question 41, presented for the preparation of the visit, as below:

- a) In this area, PSP has sought in recent years through the Safe School Program, to make young people aware of the need to understand society as a space that promotes interculturality, citizenship, gender equality and the defense of the rights of minority communities, whatever the reason. In the previous school year, about 2500 awareness actions were developed.
- b) In addition, PSP developed the project "I Do As Says FALCO", aimed at children aged between 6 and 10 years, using short episodes of cartoons specially designed for PSP and that allowed to achieve the following results:

| <i>School year</i> | <i>Group Sessions</i> | | | <i>Individual meetings</i> | <i>FaceBook e YouTube</i> |
|--------------------|-----------------------|------------------------|-----------------|----------------------------|---------------------------|
| | <i>Schools</i> | <i>Number sessions</i> | <i>Students</i> | <i>Number meetings</i> | |
| <i>2014/2015</i> | <i>2674</i> | <i>3416</i> | <i>114879</i> | <i>4938</i> | <i>-</i> |
| <i>2015/2016</i> | <i>2477</i> | <i>2837</i> | <i>85691</i> | <i>6599</i> | <i>125488</i> |
| <i>2016/2017</i> | <i>2250</i> | <i>2816</i> | <i>80282</i> | <i>4829</i> | <i>36549</i> |

Not all initiatives are focus on racism and homo / transphobia, but the characters were intentionally created to represent different ethnicities. By this we repeatedly send the preliminary message of accepting multiculturalism and respect for the rights of others.

- a) In addition, PSP informs that in the academic year 2016/2017, a total of 13.878 group sessions were held in the schools under its responsibility, and 1611 of those sessions were specifically promoting respect for human rights, focusing on Multiculturalism, Citizenship, Gender Equality or Gender Violence. These sessions involved 753.322 students, 46.853 teachers and 55.399 families.

- b) In addition to the group sessions, 11.746 individual meetings were held in the monitoring of children, of which 6.565 were PSPs initiative. These meetings occurred mainly with teachers (8.421) and family members (1.064).

In §66 and §67 ECRI recommends that “The police services should intensify dialogue and cooperation with the groups at risk from racism and intolerance”. In fact, as it was informed in the previous visit of an ECRI’s delegation to Portugal:

- a) In a first level, of national scope, PSP has been working in cooperation with the High Commissariat for Migrations in order to obtain a better knowledge and understanding of the reality of the different minority groups existent in the country and, through that information, improve police replies to these realities.
- b) In a second level, of regional scope, PSP, having in mind that the solution to the communities problems is not exclusive of the police, is deeply involve in 35 of the 47 Local Contracts of Security (Contratos Locais de Segurança) that are nowadays in course in Portugal. With this, PSP aims precisely to work in partnership with the other partners in the process of integration, socialization and security of these communities. Through this process PSP works to provide a better integration and acceptance of these minorities and, through social network and institutional interaction, we are aiming for a deep engagement between police officers and the members of these communities. Just to now, 2 of those Local Contracts of Security are in the Amadora’s municipality.
- c) In a third level, and as a practical result of this engagement effort, PSP, through the Integrated Programme of Proximity Policing (Programa Integrado de Policiamento de Proximidade), integrates Local Councils for Social Action and Social Commission Parishes. In those forums, especially those were there are minority groups establish. PSP develop informal partnerships to local associations, to facilitate the inclusion of these communities. One of those informal partnerships is, since 2015, taking place exactly in Bairro Alto da Cova da Moura, like ECRI delegation could meet, but there are more examples of partnerships with African Communities, like:
 - i. In Oeiras with the Association "Pombal XXI", and the community of Pombal Neighborhood;
 - ii. In the parish of Porto Salvo, Oeiras municipality, also with the resident community in the Bairro dos Navegadores, Bairro do Moinho das Rolas and part of the Bairro da Ribeira da Lage, annually there is a very close work by the preparation of the Feast of N^a. Sra. da Paz on 3 October;
 - iii. In Sintra municipality there is a protocol signed with the ACAS Association - Portuguese Association Cape Verde, for establish dynamic relations with this community;
 - iv. In Loures municipality there is a protocol with the Association "PROSAUDESC" under the Local Security Contract, who are given special support, particularly in actions that relate to the development of their programs for fighting against domestic violence and related issues on public health. Still in the county of Loures, in 2013 with the Community of Quinta da Fonte and in 2014 with the community of Quinta do Mocho, PSP supported the initiative "O Bairro e o Mundo", organized by the Municipality of Loures, the artistic association Theater IBISCO and resident communities. This was an urban-oriented festival, (3 days) which led to the neighborhoods a set of cultural events (plays, film, dance, workshops, gastronomy, debates and concerts), with the main objective to encourage the behavior change in the way residents take ownership of social housing and public space, intending to increase the sense of community belonging and change the image of neighborhoods.
 - v. In the municipality of Setúbal PSP knows the "Cape Verdean Association of Setubal," there is also an informal protocol between the two institutions.

- vi. In the municipality of Seixal, in the Choices Programme, PSP formalized partnerships with inserted projects in the neighborhood of Quinta da Princesa and Miratejo with a large Cape Verdean community. In this municipality the police officers regularly contact with associations working with young people in the neighborhood, setting approach strategies, and there is a good institutional relationship with the Youth Association of the Quinta da Princesa, partner in the Choices Programme, and also with the CRIAR`T Association, that works in the Valey of Chícharos.

In §67 the report recommends an increase in human rights training. Notwithstanding this being promoted by the LEA - as is also the case in the Annual Training Plan of the PSP - PSP regrets that ECRI chose to omit the information previously sent, which made known the high level of demand and training that its officers get. Indeed, PSP, among other areas, includes 116 hours of training on Fundamental Rights and Human Rights, 90 hours on Ethics, 45 hours on constitutional rights, 224 hours on criminal law and social order, 142 hours of criminal procedure and judicial organization, 322 hours of strategy and tactics of the security forces, 30 hours on communication skills and 64 hours on command and leadership.

There is also a Regulation of Frequency and Evaluation of Police Officer Basic Training Course that includes 35 hours of Ethics Police, 30 hours of Fundamental Rights and Citizenship, 45 hours of communication, 85 hours of Technical Police Intervention and 115 hours of Criminal Law and Criminal Procedure. And a Regulation of Frequency of Chief's Training Course Evaluation, this one including 30 hours of Fundamental Rights, 40 hours of Ethics, Command and Leadership, 40 hours of training; 40 hours of Interpersonal communication and customer service, 40 hours of training; 140 hours of Criminal Law and Criminal Procedure, 140 hours of training; and 60 hours of Technical Police Intervention.

In short, PSP insists on deeply regretting that ECRI continues to support its assessment of the contribution of the Portuguese Police to the respect and promotion of human rights, mainly based in 30 or 40 reports over 30 years, minimizing everything else. Understanding that those reports are, as expected, partial reports, subjective and repetitive, presented by people in times of disturbance, it is unclear why ECRI chooses to validate these reports in full, putting away many other sources of information, governmental and non-governmental.

But what PSP can't understand at all is how ECRI, a Council of Europe body that as a team of experienced evaluators, requires that the legal procedures when concerning to police officers, doesn't have to be fair, but instead it seems that all the accused have to be condemned. When any country does not apply the principle of the presumption of innocence, is immediately censored by the international community; in any remote region or even in periods of war. In Portugal we follow that example, without distinction between any citizens, no matter ethnics or profession. Those are practices which, because they violate the most elementary human rights and, of course, the Portuguese Constitution, PSP does not identify itself.

It is through the collaborative work in, dozens of neighborhoods or minority communities, hundreds of hours of human rights training and related legislation, or thousands of sessions annually involving close to 1 million children, promoting human rights and citizenship, that PSP shows what is its institutional strategy. And this strategy is practice by the enormous daily commitment of its professionals, imbued with the highest principles of service to the public cause and to the next one, defending the values of citizenship and promoting human rights.”

Regarding the same exact paragraphs - §53 to §67 -, the Inspectorate General of Home Affairs (IGAI) conveys the following response:

“Paragraphs 53 to 67 of the ECRI Report on Portugal (hereafter referred to as “Report”) concern situations involving the action of police officers in boroughs mostly inhabited by citizens of African origin.

To begin with, it should be noted that the Inspectorate General of Home Affairs (IGAI) has always based its actions on the respect, promotion and defence of the fundamental rights of all citizens. Besides, this is its mission and reason for being.

The work carried out by IGAI, during the already long years of its existence, conclusively testifies the profound transformation that has been taking place in the security forces and services, in the sense of the uncompromising defence of the fundamental rights of all citizens.

As you know, in a democratic State based on the rule of law, as defined in Article 2 of the Constitution of the Portuguese Republic, the primacy of legality is in force.

That legality protects all citizens from the abuse of public powers and, in that sense, also from the abuse of authority, without a doubt. But that legality also establishes procedural rules to establish the facts that generate responsibility, first of all from the public sanctioning scope.

To this extent, the performance of IGAI takes place in a legally established process in which the fundamental rights of the individuals involved (of all individuals) are duly safeguarded. This also concerns - and it would be idle to express it if there was always a correct understanding of all the dimensions of the principle of the democratic rule of law - the protection of the citizens' fundamental rights. Convictions "in the public square", outside legally fair and verifiable judicial proceedings, do not constitute the materialization of the values inherent to a democratic State based on the rule of law (we could even say that they are their denial).

On the other hand, it is true that the media play an essential role in a democratic State based on the rule of law. As a matter of fact, independent and free information is key to the establishment of social awareness and often to the opening of legal proceedings whenever is at stake the report of facts that may give rise to any kind of legal responsibility (obviously, after the corresponding legal factual conditions are established). We cannot, however, support that the media investigation replaces the legal proceedings to determine the punishable responsibility. Likewise, entities with unquestionable public responsibilities cannot act as if that replacement were legitimate.

In this context, IGAI has always acted when it comes to its knowledge that some kind of abuse was committed by officers of the security forces and services. In all cases where the legal conditions for its action are established, IGAI never hesitates to intervene to defend the fundamental rights of all citizens, with strict respect for the democratic legality. It could not be otherwise.

Considering the Cova da Moura case (facts that took place on 5 February 2015), we must say that, contrary to what is written in the final part of Paragraph 53 of the Report, IGAI took immediate action and it did so as legally foreseen: an inquiry was opened on 9 February 2015.

That inquiry gave origin to nine (9) disciplinary proceedings, which were opened on 3 July 2015. The nine (9) disciplinary proceedings followed the legal procedures and seven (7) of them were dismissed for lack of evidence. For two (2) of them, disciplinary sanctions were proposed and applied by the authority with disciplinary competence on 19 April 2017.

After the opening of those nine (9) inquiries, the investigation went on in order to establish the veracity of the alleged facts ascribed to those involved. Those inquiries were dismissed on 2 May 2017 because there was no evidence that other disciplinary offences had been committed.

This is how things are done in a democratic State based on the rule of law: proceedings are opened, the legal measures foreseen for the case are applied, an evaluation of the evidence produced is made - after the hearing of all those involved, who give their contribution to the establishment of the truth - and, finally, the competent authority decides and explains the grounds for the decision taken in order to make it understandable and susceptible of verification by a competent authority.

This is what happened in the Cova da Moura case regarding the course of action taken by IGAI. We notice that the Report is based on news broadcasted by the media, as well as an open letter signed by several civil organisations. However, it has not taken into account the reports produced in the proceedings regarding the facts that took place on 5 February at Cova da Moura, elements that are

crucial to understand (or, at least, to be able to comment and analyse) what was the course of action taken by IGAI in this context.

Accordingly, and contrary to what is mentioned in the last reference in the part that concerns the “last references” of the Memorandum that now is annexed to the ECRI Report, the last part of Paragraph 53 of the Report contains a factual mistake: contrary to what is expressly mentioned therein, IGAI took the measures that it legally could have taken, as always does. We invite ECRI to read the consecutive Annual Reports of Activities of IGAI, which are available to the public and can be found in its official Website (www.igai.pt).

Other factual mistakes of the Report: the criminal investigation did not correspond to a “new investigation” regarding the investigation carried out by IGAI, as is suggested in Paragraph 55 of the Report. The investigations followed their legal procedures simultaneously, according to the law, and IGAI considered some elements deriving from the criminal proceedings.

On the other hand, and still concerning the factual inaccuracies of the Report, although the criminal proceedings asked for the suspension of all the indicted police officers (see the above-mentioned Paragraph 55 of the Report), that request of the public prosecutor was denied by the judge.

The suspensions mentioned in the Report took place in the scope of disciplinary proceedings investigated by IGAI.

We also do not understand the grounds for the question that arises from the final part of Paragraph 61 of the Report. As a matter of fact, IGAI, as soon as it has any knowledge of abuse by the security forces and services, acts according to the legal provisions that allow its intervention.

We must now expound again the fundamental principles and rules of a democracy, since it ensues, from the reading of Paragraphs 53 to 67 of the Report, conclusions that correspond to “a clean slate” of essential values that must therefore be remembered.

The scrutiny and attention that the Report ascribes to the Cova da Moura case is essentially based on the indictment made by the public prosecutor in criminal proceedings against eighteen (18) police officers from the precinct of Alfragide.

As we write, the trial of the defendants is in progress. One of the defendants in the proceedings (the only one that, considering the legitimate definition of the procedural strategy to follow, decided to require the opening of an enquiry) had the charges against her withdrawn because she was not even in the precinct at that day and hour.

Until the judgement becomes final, no public entity may assume (and from it infer consequences) that the defendants who were indicted have really committed the acts of which they are accused. That is what ensues from the provisions of Article 2-(1) of the Constitution of the Portuguese Republic and is generally referred to as “presumption of innocence”.

This principle embodies a fundamental conquest of the lengthy war of the citizenship against the abuse of public powers and is a value that is bestowed on all citizens in a democratic State based on the rule of law.

Furthermore, this is a principle also established in Article 48 of the Charter of Fundamental Rights of the European Union, besides its inclusions in the majority of the western constitutional systems, and Article 11 of the Universal Declaration of Human Rights, and, consequently, the performance of ECRI must necessarily bear in mind the corollaries of this important legal criterion.

IGAI, as a warrantor and defender of the fundamental rights of all citizens, refuses to be a part of the voices, worryingly growing, of those who decrease, minimise or even show no respect for the importance of this crucial civilizational principle.

Considering the part of the Report that focus on the Cova da Moura case, it relies on the contents of the indictment of the public prosecutor, as well as news provided by the media.

Therefore, we must now simply say, besides everything else we said above, that it was really a case that was reported in the media, that IGAI acted in strict conformity with the applicable legal provisions, that the decisions taken by IGAI regarding this case are duly grounded in facts that are mentioned in the reports legally and in due time presented (to which ECRI, considering the contents of its Report, paid no attention) and that IGAI is paying close attention to the progress of the judicial proceedings in course, fully respecting the principles and values of a democratic State based on the rule of law, as defined by Article 2 of the Constitution of the Portuguese Republic.

On its part, IGAI must refute, because it has unquestionably no base, the statement made the Report, in its Paragraph 62, that IGAI tolerates racist behaviour by police officers.

IGAI battles in defence of zero tolerance towards any abuse or any discrimination based on any kind of factor. A proof of this, to begin with in what concerns this specific Cova da Moura case, are the grounds for the reports produced in the corresponding proceedings of disciplinary nature, discarded by ECRI in favour of news broadcasted by the media.

Nevertheless, it also says that IGAI's activity is obviously scrutinised by any legitimate authority that intends to evaluate that activity. However, this must not be confused with the exclusive analysis of news broadcasted by the media.

Furthermore, the visit of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) - a body of the Council of Europe, such as ECRI - to Portugal in 2016 (therefore, one year before the visit of the ECRI delegation) underlines, in the corresponding report, the positive aspects of IGAI's activity, which resulted from the analysis of concrete proceedings of ill-treatments investigated by IGAI (namely those concerning the incidents that had taken place at Cova da Moura).

These facts were utterly ignored in this Report produced by ECRI.

The CPT praised, in its Report, the fact that the files were meticulously maintained, the decisions well-argued and elaborate, the measures taken were the most suitable to the case and that all allegations of ill-treatments of a more serious nature were shared with the Public Prosecutor's Office. The CPT also emphasized the collaboration, transparency, the open and frank dialogue and the extreme promptness and cordiality with which IGAI received the representatives of that body during their visit to Portugal.

On the other hand, it was recognised that there were limitations to the activity of IGAI linked to the available resources, to begin with in what concerns human resources, but also regarding the legal powers at the investigation level.

The CPT issued recommendations in the sense of the reinforcement of the powers of IGAI and corresponding competencies.

Therefore, it is hard to understand the suggestion now made by ECRI (Paragraph 63) in the sense of setting up an independent body, tasked with the investigation of certain cases of abuses committed by officers of the security forces and services. As a matter of fact, that body already exists: it is IGAI itself. Thus, we do not see any grounds for the establishment of a new "igai" (the name has little relevance) with parallel competencies to those of IGAI.

In what regards the reinforcement of the independence and efficacy of IGAI, we must now mention that a legislative procedure (Organic Law of IGAI) is in course, in which IGAI participates with proposals that include measures in order to endow this body with a normative charter, both in the field of human resources and in the field of its competencies, more suitable to the efficient and independent pursuit of its legal mission.

We must also make a brief reference, in this context, to the competencies of IGAI in what concerns de legal procedure of regulatory offences proceedings in the scope of discriminatory acts that violate the principle of equality which are committed by all employees under the authority of the Minister of Home Affairs. This is another competence that also contributes, in a relevant manner, to the fight against the perpetration of discriminatory acts

The ECRI Report mentions, in another way, the incident that took place in February 2017 in the borough 6 de Maio, in Amadora, in the context of the demolition of dwellings that had been illegally built and kept.

In relation to this case, we must only refer that inquiry proceedings are going on in IGAI, with criminal proceedings also in course, and that IGAI is trying to combine the two proceedings.

For the rest, IGAI subscribes the recommendations of the ECRI Report in the sense of providing further training to the officers of the security forces and services in order to provide them with the adequate sympathy towards issues of discrimination, as well as to intensify the proximity of police officers to the population of the boroughs and to ensure the security and integration of all citizens.

Finally, we must assure you that, in the scope of its legal competencies, IGAI will continue to perform its duties in strict and intransigent compliance with the legality.”

3. Integration policies

Integration policies for people of migrant origin

On this issue, the Immigration and Borders Service (SEF) mentions the following:

“Regarding the African Communities, the Report refers on the matter 77 (page 27) that “A significant number of children born in Portugal do not have a stable stay permit situation, and their parents or the children themselves are under threat of expulsion”.

Considering that the legal framework of foreigners, highlighting its limits on expulsion (artº 135º - Act 23/2007, of July 4), we cannot agree with this conclusion as it is not accurate and is in self-contradiction with the information on matter 71 (page 26), from the same report “*The Foreigner and Border Service (SEF) helps migrants to legalise their residence status, a process that resulted in 130 foreign school pupils being legalised in 2016. Since 2012, Article 135 of the Act on Foreigners has stipulated that persons born in Portugal cannot be expelled if they have custody of Portuguese or foreign children residing in Portugal or have lived in the country since the age of 10 years or under*”.

As reported by SEF, at the meeting of 16th of November 2017, with the delegation of ECRI, it is imperative to recall some specific measures aimed at the regularization and integration of foreign students in the national territory, namely:

- The program “SEF Goes to School” (SEF vai à escola), in 2017 promoted the regularization of 168 foreigners, preventing their social exclusion and supporting their integration. Of the total number of students covered by 2017 year program, 35 nationals from African countries were legalized, more 14 students than in the previous year.
- The opening of the “Study in Lisbon Lounge” and the “Home of Lusophony” (Casa da Lusofonia) in Coimbra, initiatives designed to support students and foreign researchers at the universities.

In view of the remarks made above, we propose to remove or amend the text mentioned in matter 77 of the Report, as it is not according to the Portuguese legislation in force and does not represent the reality.

We would like to take this opportunity to request the amendment of the SEF designation in its English version, stated in matters 45 and 71, for “Immigration and Borders Service” instead of “Foreigner and Border Service”.”

Lisboa, 13 de agosto de 2018

