



**General Assembly**

Distr.  
GENERAL

A/HRC/WG.6/6/PRT/2  
13 August 2009

Original: ENGLISH

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HUMAN RIGHTS COUNCIL  
Working Group on the Universal Periodic Review  
Sixth session  
Geneva, 30 November-11 December 2009

**COMPILATION PREPARED BY THE OFFICE OF THE HIGH COMMISSIONER FOR  
HUMAN RIGHTS, IN ACCORDANCE WITH PARAGRAPH 15(B) OF THE ANNEX  
TO HUMAN RIGHTS COUNCIL RESOLUTION 5/1**

**Portugal**

The present report is a compilation of the information contained in the reports of treaty bodies, special procedures, including observations and comments by the State concerned, and other relevant official United Nations documents. It does not contain any opinions, views or suggestions on the part of the Office of the United Nations High Commissioner for Human Rights (OHCHR), other than those contained in public reports issued by OHCHR. It follows the structure of the general guidelines adopted by the Human Rights Council. Information included herein has been systematically referenced in endnotes. The report has been prepared taking into consideration the four-year periodicity of the first cycle of the review. In the absence of recent information, the latest available reports and documents have been taken into consideration, unless they are outdated. Since this report only compiles information contained in official United Nations documents, lack of information or focus on specific issues may be due to non-ratification of a treaty and/or to a low level of interaction or cooperation with international human rights mechanisms.

## I. BACKGROUND AND FRAMEWORK

### A. Scope of international obligations<sup>1</sup>

<i>Core universal human rights treaties<sup>2</sup></i>	<i>Date of ratification, accession or succession</i>	<i>Declarations /reservations</i>	<i>Recognition of specific competences of treaty bodies</i>
ICERD	24 Aug. 1982	Declaration: art. 14	Individual complaints (art. 14): Yes
ICESCR	31 July 1978	None	
ICCPR	15 June 1978	None	
ICCPR-OP 1	3 May 1983	None	
ICCPR-OP 2	17 Oct. 1990	None	
CEDAW	30 July 1980	None	
OP-CEDAW	26 Apr. 2002	None	
CAT	9 Feb. 1989	Declaration: arts. 21, 22	Inter-State complaints (art. 21): Yes Individual complaints (art. 22): Yes
CRC	21 Sept. 1990	None	
OP-CRC-AC	19 Aug. 2003	Binding declaration under art. 3: 18 years; Dec., art 2.	
OP-CRC-SC	16 May 2003	None	
<i>Core treaties to which Portugal is not a party: OP-ICESCR<sup>3</sup>, OP-CAT (signature only, 2006), ICRMW, CRPD (signature only, 2007), CRPD-OP (signature only, 2007), CED (signature only, 2007)</i>			

<i>Other main relevant international instruments<sup>4</sup></i>	<i>Ratification, accession or succession</i>
Convention on the Prevention and Punishment of the Crime of Genocide	Yes
Rome Statute of the International Criminal Court	Yes
Palermo Protocol <sup>5</sup>	Yes
Refugees and stateless persons <sup>6</sup>	Yes, except 1954 and 1961 Conventions
Geneva Conventions of 12 August 1949 and Additional Protocols thereto <sup>7</sup>	Yes, except Additional Protocol III
ILO fundamental conventions <sup>8</sup>	Yes
UNESCO Convention against Discrimination in Education	Yes

1. Portugal was encouraged by the Committee against Torture (CAT) in 2007 to consider ratifying the major United Nations human rights treaties to which it is not yet party.<sup>9</sup> The Special Representative of the Secretary-General on human rights defenders further noted that Portugal had not signed the International Convention on the Protection of the Rights of all Migrant Workers and Members of Their Families.<sup>10</sup>

2. In 2004, the Committee on the Elimination of Racial Discrimination (CERD) strongly recommended that Portugal ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992.<sup>11</sup>

### B. Constitutional and legislative framework

3. In 2008, the Committee on the Elimination of Discrimination against Women (CEDAW) welcomed the adoption of legislative amendments in the area of electoral law, tax law, penal law,

reproductive rights and the social welfare system to promote gender equality and the advancement of women.<sup>12</sup>

4. CAT welcomed the entry into force of Act No. 23/2007 of 4 July 2007, according to which foreign nationals may not be deported to a country where they would be in danger of being subjected to torture or other cruel, inhuman or degrading treatment.<sup>13</sup>

5. CAT also noted with satisfaction that, under Act No. 23/2007, victims of human trafficking can obtain residence permits, and welcomed the awareness-raising campaign to combat this problem.<sup>14</sup>

6. CAT further noted that article 240 of the new Penal Code, concerning non-discrimination, now covers not only discrimination based on race, colour, ethnic or national origin and religion, but also discrimination based on sex and sexual orientation.<sup>15</sup>

### **C. Institutional and human rights infrastructure**

7. The Provedor de Justiça of Portugal was accredited with 'A' Status by the International Coordinating Committee of National Human Rights Institutions for the Promotion and Protection of Human Rights (ICC) in 1999 and again in October 2007.<sup>16</sup>

8. CEDAW noted the restructuring of the national machinery whereby the Commission for Citizenship and Gender Equality replaced both the Commission for Gender Equality and Women's Rights and the Mission against Domestic Violence, and has been mandated not only to promote gender equality and the advancement of women, but also to address other grounds of discrimination. While recognizing the importance of this new institution, CEDAW expressed concern that the issues of discrimination against women and gender equality may lose visibility under such a broad mandate and receive less attention.<sup>17</sup>

9. In 2003, the Human Rights Committee (HR Committee) recommended that Portugal create a police oversight service, independent from the Ministry of the Interior, with a view to ensuring that all alleged cases of torture, ill-treatment and disproportionate use of force by police officers are fully and promptly investigated, that those found guilty are punished, and that compensation is provided to the victims or their families.<sup>18</sup> In comments submitted in 2004, Portugal stated that all such cases shall give rise to a disciplinary investigation by the General Inspectorate of Internal Administration and referral to the Minister of the Interior for a decision. In addition, the actions of Portuguese police forces may be monitored externally by the courts and the Ombudsman or internally by individual police headquarters.<sup>19</sup>

10. CERD welcomed the enactment of Decree Law 251/2002 which, inter alia, establishes the Advisory Board for Immigration Affairs, tasked with ensuring the participation of associations representative of immigrants, employers' associations and social solidarity institutions in the elaboration of policies promoting social integration and combating exclusion.<sup>20</sup> CERD also noted with appreciation the work performed by the Office of Multiculturalism in promoting educational programmes and projects with respect to ethnic minorities, particularly Roma/gypsy children.<sup>21</sup>

11. A 2008 WHO report noted that in August 2005, the Ministry of Health created the High Commissariat for Health to coordinate public policies for the implementation of the 2004–2010 National Health Plan. Also, the National Coordination for HIV/AIDS Infection was created

within the High Commissariat to better coordinate the institutions, agencies and sectors involved.<sup>22</sup>

12. Noting the existence of the National Commission for the Protection of Children and Youth at Risk and the District-Level Commissions, the Committee on the Rights of the Child (CRC) in 2001 reiterated its earlier call for a structure for national coordination of the implementation of the Convention with regard to all children.<sup>23</sup> It recommended paying particular attention to coordination at the ministerial level and to continue to ensure the participation of civil society, including NGOs, in the implementation of the Convention.<sup>24</sup>

#### **D. Policy measures**

13. CEDAW welcomed the adoption of the Third Plan for Equality: Citizenship and Gender, the Third Plan against Domestic Violence, and the First Plan against Trafficking in Human Beings.<sup>25</sup> It also recommended that Portugal ensure, through its existing equality structures at the national level, that gender mainstreaming procedures are consistently applied in all ministries. While respecting the autonomy of local authorities, the Committee recommended that measures be taken to ensure the institutionalization of equality advisers in all local municipalities.<sup>26</sup> CEDAW further recommended taking all necessary measures to ensure the full implementation of Portugal's national strategy and policy for the advancement of women and gender equality, including in the autonomous regions of the Azores and Madeira.<sup>27</sup> It suggested the application of temporary special measures in various forms in areas where women are underrepresented or disadvantaged and allocation of additional resources where needed to accelerate their advancement.<sup>28</sup>

14. In 2000, the Committee on Economic, Social and Cultural Rights (CESCR) was concerned about the lack of a national human rights plan in accordance with the 1993 Vienna Declaration and Programme of Action<sup>29</sup> and called on Portugal to create one.<sup>30</sup>

15. CRC was concerned at the lack of a comprehensive national strategy on the implementation of the Convention<sup>31</sup> and recommended that Portugal develop one, set priorities and define a time frame for implementation.<sup>32</sup>

16. CRC welcomed Portugal's decision to develop a global plan on family policy, including changes to social welfare and social security and means-tested coverage with particular provisions for families and children, including those persons not paying contributions to the social security system. It also welcomed the definition, in the National Plan of Action against Poverty and Social Exclusion, of child protection priorities including the provision of support measures for families to enable them to fulfil their parental responsibilities.<sup>33</sup>

17. In 2005, Portugal adopted the Plan of Action (2005-2009) for the World Programme for Human Rights Education focusing on the national school system.<sup>34</sup>

## II. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

### A. Cooperation with human rights mechanisms

#### 1. Cooperation with treaty bodies

<i>Treaty body</i> <sup>35</sup>	<i>Latest report submitted and considered</i>	<i>Latest concluding observations</i>	<i>Follow-up response</i>	<i>Reporting status</i>
CERD	Feb. 2004	Aug. 2004	-	Twelfth and thirteenth reports overdue since Sept. 2007
CESCR	Nov. 1997	Nov. 2000	-	Fourth report overdue since June 2005
HR Committee	June 2002	July 2003	Aug. 2004	Fourth report overdue since Aug. 2008
CEDAW	Jan. 2008	Nov. 2008	-	Eighth and ninth report due on July 2013
CAT	Mar. 2005	Nov. 2007	Nov. 2007	Sixth report due on Dec. 2011
CRC	Oct. 1998	Oct. 2001	-	Third report overdue since Oct. 2002
OP-CRC-SC			-	Initial report overdue since June 2005
OP-CRC-AC			-	Initial report overdue since Sept. 2005

#### 2. Cooperation with special procedures

<i>Standing invitation issued</i>	Yes
<i>Latest visits or mission reports</i>	Special Rapporteur on human rights and extreme poverty (29-30 Oct. 1998) <sup>36</sup>
<i>Visits agreed upon in principle</i>	-
<i>Visits requested and not yet agreed upon</i>	-
<i>Facilitation/cooperation during missions</i>	-
<i>Follow-up to visits</i>	-
<i>Responses to letters of allegations and urgent appeals</i>	-
<i>Responses to questionnaires on thematic issues</i> <sup>37</sup>	Portugal responded to 4 of the 15 questionnaires sent by special procedures mandate holders, <sup>38</sup> within the deadlines. <sup>39</sup>

#### 3. Cooperation with the Office of the High Commissioner for Human Rights

18. Portugal contributed financially to OHCHR in 2005,<sup>40</sup> 2006,<sup>41</sup> 2007,<sup>42</sup> 2008<sup>43</sup> and 2009.<sup>44</sup>

### B. Implementation of international human rights obligations

#### 1. Equality and non-discrimination

19. In 2000, CESCR urged Portugal to intensify its efforts to create a culture of tolerance and to eliminate all forms of discrimination against women, Roma, asylum-seekers and immigrants.<sup>45</sup> The HR Committee<sup>46</sup> and CERD<sup>47</sup> expressed concern that, despite extensive positive measures adopted by Portugal, Roma continued to suffer from prejudice and discrimination, particularly in access to housing, employment, social services and education. CERD invited Portugal to take more effectively into account, in all its programmes, projects and

measures, the situation of Roma women who are often victims of double discrimination.<sup>48</sup> CESCR also noted with concern that foreign workers cannot enrol in the vocational guidance and training courses to which Portuguese workers are entitled.<sup>49</sup>

20. CERD further recommended that Portugal introduce in the criminal law a provision to the effect that committing an offence with a racist motivation or aim constitutes an aggravating circumstance.<sup>50</sup>

21. In 2001, CRC expressed concern about de facto discrimination against children and families living in poverty in less developed rural and urban areas and against the Roma and their children in particular.<sup>51</sup> It recommended that Portugal continue and strengthen efforts to ensure equal respect for the right to non-discrimination of all children, giving particular attention to all the above-mentioned.<sup>52</sup>

22. CEDAW was concerned at the persistence of occupational segregation of women and men in the labour market<sup>53</sup> and recommended that Portugal take concrete measures to eliminate both horizontal and vertical segregation through, inter alia, education, training and retraining and effective enforcement of the laws.<sup>54</sup>

## **2. Right to life, liberty and security of the person**

23. In 2003, the HR Committee urged Portugal, inter alia, to end police violence without delay, to ensure that education on the prohibition of torture and ill-treatment, as well as sensitization on issues of racial discrimination, is included in the training of law enforcement personnel.<sup>55</sup> The HR Committee<sup>56</sup> and CERD<sup>57</sup> called on Portugal to ensure that all cases of alleged torture, ill-treatment and disproportionate use of force by police officers are fully, promptly and impartially investigated, that those found guilty are punished, and that compensation is provided to the victims or their families.

24. CERD expressed concern, as highlighted also by the Office of the United Nations High Commissioner for Refugees (UNHCR), about allegations of police misconduct towards ethnic minorities or persons of non-Portuguese origin, including excessive use of force, ill-treatment and violence.<sup>58</sup> CAT was also concerned by reports of numerous acts of violence of a discriminatory nature directed against certain minorities and that the membership of the police forces does not reflect the diversity of minorities present in Portugal. It recommended taking measures to effectively combat acts of violence based on any form of discrimination, punish the perpetrators appropriately and strive to include representatives of minorities in the police forces.<sup>59</sup> CAT added that Portugal must amend the Penal Code to include discrimination as a possible motive for acts of torture as defined under article 1 of the Convention.<sup>60</sup> Portugal submitted comments to the HR Committee in 2004, citing various measures to end police violence, including the first general Portuguese law which regulates the use of firearms by the police and training sessions on the prohibition of torture, ill-treatment and racial discrimination.<sup>61</sup>

25. CAT was concerned that article 4 of Act No. 21/2000 does not include torture among the 30 crimes for which the judicial police is solely responsible. This could impede the initiation of prompt and impartial investigations of alleged cases of torture. It recommended that appropriate steps be taken to include torture in this list and to ensure prompt and impartial investigations where there are grounds for believing that an act of torture has been committed in any territory under its jurisdiction.<sup>62</sup> In its follow-up response, Portugal replied that article 4 of Act

No. 21/2000 refers to the criminal investigation of police crimes against the peace and crimes against humanity, including torture.<sup>63</sup>

26. CEDAW called on Portugal to ensure the full implementation of legislation on violence against women, and prosecution and conviction of perpetrators.<sup>64</sup> Concerned about reports of numerous cases of domestic violence affecting women and children, and the high number of deaths among women due to such violence,<sup>65</sup> CAT recommended that Portugal guarantee access to complaints mechanisms for victims.<sup>66</sup> CEDAW recommended that Portugal ensure that a sufficient number of safe crisis centres and shelters are available to women victims of violence in all parts of Portugal, staffed by expert personnel, with adequate financial resources.<sup>67</sup>

27. CRC was concerned that corporal punishment continued to be practiced within the family.<sup>68</sup> It recommended, *inter alia*, that Portugal adopt legislation prohibiting corporal punishment in the family and in any other contexts not covered by existing legislation and develop mechanisms to end the practice, including through information campaigns targeting parents, teachers and children.<sup>69</sup>

28. CEDAW urged Portugal to ensure the full implementation of legislation prohibiting female genital mutilation, including the prosecution of perpetrators, with a view to eliminating this harmful traditional practice. It called for targeted prevention strategies, as well as education and awareness-raising programmes involving health-service providers, community and religious leaders, and women's organizations, and for culturally sensitive information campaigns.<sup>70</sup>

29. Concerned about prison and detention conditions, the HR Committee urged Portugal to intensify efforts to reduce overpopulation in prisons, ensure that pretrial and convicted detainees are kept separately, and that appropriate and timely medical care is available to all detainees.<sup>71</sup> CAT remained concerned about reports of continuing violence among inmates, including sexual violence, and about the persistently high number of deaths in detention, largely attributable to HIV/AIDS and suicide. In its follow-up response in 2007 to CAT's concluding observations, Portugal stated that there had been no reports of cases of sexual violence between detainees. Sick inmates received appropriate care, it said, adding that deaths due to AIDS reflected morbidity rates in the national population and were not due to prison conditions.<sup>72</sup>

30. CAT was also concerned by reports of torture and cruel, inhuman or degrading treatment in penitentiaries, citing a case of alleged beatings resulting in multiple injuries in 2003.<sup>73</sup> In its 2007 follow-up response, Portugal responded that the case referred to was not an instance of torture. It was referred to the courts, and the resulting decision was the subject of an appeal. A disciplinary trial was under way to decide whether to dismiss the prison guard. It added that there were many complex reasons for prison violence, constantly being addressed within the prison system.<sup>74</sup>

31. In 2003, the HR Committee noted with concern that the proportion of juvenile workers had increased since 1998 and that no statistics have been gathered regarding the worst forms of child labour. The Committee recommended that Portugal intensify efforts to eliminate child labour and strengthen the supervisory system in this area.<sup>75</sup>

32. CRC remained concerned at the number of street children in Portugal's main cities<sup>76</sup> and recommended, *inter alia*, studying the causes of children living on the street and the scope of the problem, and developing a comprehensive policy to address the causes.<sup>77</sup> In 2008 the ILO Committee of Experts on the application of Conventions and Recommendations noted from

the report on a street project by the Institute for Aid to Children, that prevention and training measures had been taken for street children and that some 1,000 children had benefited from the street project. It noted, nonetheless, that the problem still exists and that children are engaged in begging or are exposed to other risks. The Committee pointed out that street children are particularly exposed to the worst forms of child labour, and encouraged Portugal to pursue its efforts to protect them from such labour.<sup>78</sup>

33. CAT was concerned about the extent of human trafficking, which affects a very high number of women, for the purposes of economic and sexual exploitation.<sup>79</sup> In 2006 the ILO Committee of Experts referred to the second periodic report that the Government submitted to CRC in February 2001, in which it indicated that cases of trafficking in children are rare in Portugal, but that isolated cases had been detected in coastal areas, where abandoned children had been found.<sup>80</sup> In 2005 the ILO Committee of Experts noted that Portugal is a member of Interpol which helps cooperation between countries in the fight against trafficking of children.<sup>81</sup>

34. In 2008 the ILO Committee of Experts noted from two activity reports of the Institute for Aid to Children that, although it is not widespread, child prostitution does exist in Portugal.<sup>82</sup> CESCR had also noted with concern, in 2000, the increase in paedophilia and child pornography and that these phenomena are associated with the increase in drug trafficking and consumption and other criminal activities which endanger the security and health of the population.<sup>83</sup>

### **3. Administration of justice and the rule of law**

35. Following a 2006 communication alleging a violation of the right to a fair trial under the ICCPR through the denial of the right to represent oneself in judicial proceedings, the HR Committee found that the author was entitled to an effective remedy under article 2, paragraph 3 (a) of the Covenant. It stated that Portugal should amend its laws to ensure their conformity with article 14, paragraph 3 (d) of the Covenant, which guarantees the right to defend oneself in person.<sup>84</sup>

36. In 2003, the HR Committee also expressed concerns about reported cases of police failure to register arrests and detentions and urged Portugal to ensure that this is done, in particular through the improvement of its supervision system and the training of police officers.<sup>85</sup> In the same vein, CAT urged Portugal, inter alia, to take adequate measures to ensure that all arrests, including arrests for identification purposes, are not targeted at groups of persons but that arrests are made on an individual basis. It also urged Portugal to include in its legislation a provision explicitly requiring the Public Prosecutor's Office to order a forensic report in all cases where it has knowledge of a situation of ill-treatment of a person held in custody.<sup>86</sup> In its 2007 follow-up response to CAT's concluding observations, Portugal stated that "in accordance with the law and police practice in Portugal, all police measures are strictly individual and concrete."<sup>87</sup>

37. Concerned that a person may be held in pretrial detention for 6 to 12 months before charges are brought and that such detention in exceptional cases can last for up to four years, the HR Committee noted that in 2003, almost one third of the persons detained in Portugal were in pre-trial detention.<sup>88</sup> It urged Portugal to amend its legislation to ensure that charges are brought against persons in pretrial preventive detention and that all persons are tried within a reasonable time.<sup>89</sup>



38. CEDAW recommended that Portugal disseminate information on the available remedies and expand its training programmes for the judiciary and public officials to sensitize them to all forms of violence against women and measures to protect victims.<sup>90</sup>

#### **4. Right to participate in public and political life**

39. In 2003, the HR Committee welcomed the granting to foreigners of the rights to vote and to be elected in local elections, as well as the recognition of broader political rights for citizens of Portuguese-speaking countries, under condition of reciprocity.<sup>91</sup>

40. CEDAW called on Portugal to ensure full implementation in the next election of 2009 of the new Parity Law, which establishes minimum quotas of 33 per cent of each sex in the electoral lists for European, national and local elections.<sup>92</sup> It further called for sustained measures to accelerate an increase in representation of women in elected and appointed bodies in the Azores and Madeira.<sup>93</sup> A 2008 United Nations Statistics Division source indicated that the proportion of seats held by women in the national parliament increased from 19.1 per cent in 2005 to 28.3 per cent in 2008.<sup>94</sup>

#### **5. Right to work and to just and favourable conditions of work**

41. CEDAW recommended that Portugal develop and apply job evaluation systems based on gender-sensitive criteria and collect sex-disaggregated data regarding the type and extent of wage differentials to eliminate unequal pay for work of equal value.<sup>95</sup> In 2007 the ILO Committee of Experts noted from figures provided by the Government that wage differences between men and women continue to exist in the private sector with women earning 76.4 per cent of what men earn.<sup>96</sup>

42. CEDAW also recommended that Portugal monitor the impact of the use of fixed-term contracts and increase incentives for employers, when appropriate, to counteract possible adverse consequences of fixed-term work for women, especially in regard to their job security, salary levels and pension and retirement benefits.<sup>97</sup>

43. In 2008 the ILO Committee of Experts cited the General Union of Workers' (UGT) comments that, although a clear improvement is visible, especially in the awareness of child labour, problems still exist in some sectors. A number of employers appear to make use of child labour at home – a way of evading labour inspection. According to the activity reports of the general labour inspectorate for 2006, some 55 contraventions involving child labour were detected, more than the previous year.<sup>98</sup>

#### **6. Right to social security and to an adequate standard of living**

44. CERD urged Portugal to continue taking special measures in accordance with article 2, paragraph 2, of the Convention to ensure the adequate protection of the Roma and to promote equal opportunities for the full enjoyment of their economic, social and cultural rights.<sup>99</sup> Similarly, the HR Committee urged Portugal, inter alia, to intensify efforts to integrate Roma communities through positive action with regard to housing, employment, education and social services.<sup>100</sup> In 2001, CRC also encouraged Portugal to take measures to avoid the marginalization of some groups of immigrants and members of ethnic minorities in ghetto-like neighbourhoods and guarantee the equal enjoyment of the right to adequate housing to all.<sup>101</sup>

45. In 2000, CESCR urged Portugal to review its general strategy for the eradication of poverty and step up its activities to combat it.<sup>102</sup> CEDAW recommended monitoring the incidence of poverty among women, taking specific women-oriented measures into its anti-poverty schemes and monitoring their impact to combat poverty among women, particularly vulnerable groups of women, including elderly rural women.<sup>103</sup>

46. A 2008 WHO report indicated Portugal's performance in reducing mortality in various age groups has been consistently successful over the last 30 years, for example halving infant mortality rates every eight years.<sup>104</sup> A 2008 United Nations Statistics Division source indicated that the child under-five mortality rate was 5 per 1,000 live births in 2006.<sup>105</sup>

47. The 2008 UNAIDS/WHO Epidemiological Fact Sheet on HIV and AIDS indicated that the estimated number of adults and children living with HIV/AIDS in 2001 was 29 000 and in 2007, 34 000.<sup>106</sup>

48. CEDAW recommended that Portugal promote sexual health education targeted at adolescent girls and boys, and ensure access to sexual health information and all services, including those directed at interruption of pregnancies, for all women and girls.<sup>107</sup>

## **7. Right to education**

49. In 2008 the ILO Committee of Experts noted that according to UNESCO statistics for the year 2005, 98 per cent of girls and boys attended primary school. However, the secondary school figures indicate that 13 per cent of girls and 21 per cent of boys left school early. It noted in this connection that according to the Government, measures are being taken under the Integrated Education and Training Programme to encourage children to complete compulsory schooling or, in the case of children of 15 and over, to get them into education or training suited to their abilities and needs.<sup>108</sup>

50. In 2001, CRC remained concerned about the low levels of investment in education, including pre-school education; low enrolment in pre-school education, the relatively high drop-out and repetition rates in primary and secondary schools and the relatively low numbers of children going on to tertiary education from secondary school.<sup>109</sup>

51. CEDAW called on Portugal to continue efforts to strengthen rural women's and girls' access to education and formal vocational training and to encourage them to pursue their education after primary school. It recommended taking targeted measures to ensure that women working on family farms have real possibilities to acquire formal training in farming to enhance their economic empowerment.<sup>110</sup>

## **8. Migrants, refugees and asylum-seekers**

52. In 2003, the HR Committee was concerned that domestic law does not provide effective remedies against forcible return of asylum seekers, in violation of article 7 of the ICCPR.<sup>111</sup> Portugal submitted comments in 2004 stating that applicable domestic law, specifically article 8 of Act No. 15/98 and article 33 of the Constitution, provides effective remedies against the return of an alien to a country where he or she would be in danger.<sup>112</sup>

53. In 2004, CERD expressed concern about the non-suspensive effect of appeal in the admissibility phase of the asylum procedure, which may result in creating an irreversible situation even if the decision were to be overturned on appeal. It urged Portugal to guarantee

respect for the legal safeguards for asylum-seekers and to ensure that its asylum law and procedures conform to its international obligations in this field.<sup>113</sup>

54. CEDAW welcomed the introduction in 2008 of women's access to refugee status determination procedures with the systematic registration of their asylum claims independently from the principal male applicant of the family,<sup>114</sup> an initiative also highlighted by UNHCR.<sup>115</sup> The UNHCR and CEDAW also welcomed the new asylum law that exempts minors and their family members from detention at border crossing points during the admissibility stage.<sup>116</sup> In 2001 CRC further recommended that Portugal develop a refugee status determination procedure for minor asylum-seekers, introduce mechanisms providing minors with access to psychological care and ensure full implementation of all the provisions of the Asylum Law.<sup>117</sup>

### **9. Human rights and counter-terrorism**

55. The HR Committee noted with concern that many of the provisions on terrorism in the Penal Code and the Code of Penal Procedure relate to exceptional situations which may result in violations of articles 9, 15 and 17 of the Covenant.<sup>118</sup> It recommended ensuring that measures taken against terrorism do not infringe these articles and that exceptional provisions are not abused by State officials.<sup>119</sup>

## **III. ACHIEVEMENTS, BEST PRACTICES, CHALLENGES AND CONSTRAINTS**

56. In 2006, the ILO Committee of Experts noted with interest the detailed information on the activities of public authorities, particularly the criminal police, the Ministry of the Interior and the courts, on the implementation of the provisions giving effect to Convention No. 182. It noted that the police forces have adopted measures to prevent and combat sex crimes involving young persons, particularly by providing training to police officers on these crimes. In this respect, the National Guard has established 23 special assistance units throughout the country. With a view to improving their effectiveness, the police officers attached to these units constantly participate in training activities in Portugal and abroad. The national police has 34 assistance units for the victims of crime, including sex crimes.<sup>120</sup>

## **IV. KEY NATIONAL PRIORITIES, INITIATIVES AND COMMITMENTS**

### **A. Pledges by the State**

57. In 2006, Portugal made the following pledges: It committed (a) to fully cooperate with the Human Rights Council by reiterating the standing invitation to Special Rapporteurs and other Special Procedures, and by contributing to the establishment of a peer review mechanism that ensures an objective analysis of the human rights situation of all Member States; (b) to promote and protect human rights at the international level by, inter alia, making international human rights norms more widely known, accepted and respected and thus ensuring that human rights crises get the adequate response from the international community; by promoting and protecting the rights of the child taking into account the best interest of the child; taking measures to eliminate all forms of gender discrimination, ensuring gender equality and promoting and protecting women's rights; and (c) to promote and protect human rights at national level by ratifying further human rights treaties, avoiding the resort to reservations, accepting the treaty bodies' communication and inquiry procedures; improving protection and promotion of women's rights and ensuring that a gender perspective is mainstreamed into all policies and programmes, and improving the protection of the rights of the child.<sup>121</sup>

## B. Specific recommendations for follow-up

58. In 2007, CAT requested Portugal to provide, within one year, information on measures taken with regard to its aforementioned recommendations on prison conditions; prompt and impartial investigation and justice in cases of alleged torture; targeted training for police forces; and on measures to relinquish the use of electric “TaserX26” weapons, given their potential physical and mental impact on targeted persons, which would appear to violate the Convention. Portugal’s comments on CAT recommendations are reflected above, but no response was provided regarding TaserX26 weapons.<sup>122</sup>

## V. CAPACITY-BUILDING AND TECHNICAL ASSISTANCE

59. CEDAW requested that Portugal consider seeking technical cooperation and assistance, including advisory services for the implementation of its recommendations.<sup>123</sup>

### Notes

<sup>1</sup> Unless indicated otherwise, the status of ratifications of instruments listed in the table may be found in *Multilateral Treaties Deposited with the Secretary-General: Status as at 31 December 2006* (ST/LEG/SER.E.25), supplemented by the official website of the United Nations Treaty Collection database, Office of Legal Affairs of the United Nations Secretariat, <http://treaties.un.org/>.

<sup>2</sup> The following abbreviations have been used for this document:

ICERD	International Convention on the Elimination of All Forms of Racial Discrimination
ICESCR	International Covenant on Economic, Social and Cultural Rights
OP-ICESCR	Optional Protocol to ICESCR
ICCPR	International Covenant on Civil and Political Rights
ICCPR-OP 1	Optional Protocol to ICCPR
ICCPR-OP 2	Second Optional Protocol to ICCPR, aiming at the abolition of the death penalty
CEDAW	Convention on the Elimination of All Forms of Discrimination against Women
OP-CEDAW	Optional Protocol to CEDAW
CAT	Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
OP-CAT	Optional Protocol to CAT
CRC	Convention on the Rights of the Child
OP-CRC-AC	Optional Protocol to CRC on the involvement of children in armed conflict
OP-CRC-SC	Optional Protocol to CRC on the sale of children, child prostitution and child pornography
ICRMW	International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families
CRPD	Convention on the Rights of Persons with Disabilities
OP-CRPD	Optional Protocol to Convention on the Rights of Persons with Disabilities
CED	International Convention for the Protection of All Persons from Enforced Disappearance.

<sup>3</sup> Adopted by the General Assembly in its resolution 63/117 of 10 December 2008. Article 17, paragraph 1, of OP-ICESCR states that “The present Protocol is open for signature by any State that has signed, ratified or acceded to the Covenant”.

<sup>4</sup> Information relating to other relevant international human rights instruments, including regional instruments, may be found in the pledges and commitments undertaken by Portugal before the Human Rights Council, as contained in the note verbale dated 5 April 2006 sent by the Permanent Mission of Portugal to the United Nations addressed to the President of the General Assembly, available at <http://www.un.org/ga/60/elect/hrc/portugal.pdf>.

<sup>5</sup> Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

<sup>6</sup> 1951 Convention relating to the Status of Refugees and its 1967 Protocol, 1954 Convention relating to the status of Stateless Persons and 1961 Convention on the Reduction of Statelessness.

<sup>7</sup> Geneva Convention for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field (First Convention); Geneva Convention for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea (Second Convention); Convention relative to the Treatment of Prisoners of War (Third Convention); Convention relative to the Protection of Civilian Persons in Time of War (Fourth Convention); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of International Armed Conflicts (Protocol I); Protocol Additional to the Geneva Conventions of 12 August 1949, and relating to the Protection of Victims of Non-International Armed Conflicts (Protocol II); Protocol additional to the Geneva Conventions of 12 August 1949, and relating to the Adoption of an Additional Distinctive Emblem (Protocol III). For the official status of ratifications, see Federal Department of Foreign Affairs of Switzerland, at [www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html](http://www.eda.admin.ch/eda/fr/home/topics/intla/intrea/chdep/warvic.html).

<sup>8</sup> International Labour Organization Convention No. 29 concerning Forced or Compulsory Labour; Convention No.105 concerning the Abolition of Forced Labour, Convention No. 87 concerning Freedom of Association and Protection of the Right to Organize; Convention No. 98 concerning the Application of the Principles of the Right to Organize and to Bargain Collectively; Convention No. 100 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value; Convention No. 111 concerning Discrimination in Respect of Employment and Occupation; Convention No. 138 concerning Minimum Age for Admission to Employment; Convention No. 182 concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

<sup>9</sup> Conclusions and recommendations of the Committee against Torture (CAT/C/PRT/CO/4), para. 19.

<sup>10</sup> E/CN.4/2006/95/Add.5, para. 1359.

<sup>11</sup> Concluding observations of the Committee on the Elimination of Racial Discrimination (CERD/C/65/CO/6), para. 16.

<sup>12</sup> CEDAW/C/PRT/CO/7, para. 6.

<sup>13</sup> CAT/C/PRT/CO/4, para. 4.

<sup>14</sup> Ibid., para. 16.

<sup>15</sup> Ibid., para. 17.

<sup>16</sup> For the list of national human rights institutions with accreditation status granted by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights (ICC), see A/HRC/10/55, annex I.

<sup>17</sup> CEDAW/C/PRT/CO/7, para. 18.

<sup>18</sup> Concluding observations of the Human Rights Committee (CCPR/CO/78/PRT), para. 8 (b).

<sup>19</sup> CCPR/CO/78/PRT/Add.1, recommendation 8, para. 8 (b).

<sup>20</sup> CERD/C/65/CO/6, para. 3.

<sup>21</sup> Ibid., para. 5.

<sup>22</sup> WHO, Progress on implementing the Dublin declaration on partnership to fight HIV/AIDS in Europe and Central Asia, Geneva 2008, p. 266, available at <http://europeandcis.undp.org/hivaids/show/799120F2-F203-1EE9-BB5689565E1CFB45>.

<sup>23</sup> Concluding observations of the Committee on the Rights of the Child (CRC/C/15/Add.162), para. 8.

<sup>24</sup> Ibid., para. 9.

<sup>25</sup> Committee on the Elimination of Discrimination against Women (CEDAW/C/PRT/CO/7), para. 6.

<sup>26</sup> Ibid., para. 21.

<sup>27</sup> Ibid., para. 13.

<sup>28</sup> Ibid., para. 37.

<sup>29</sup> Concluding observations of the Committee on Economic, Social and Cultural Rights (E/C.12/1/Add.53), para. 9.

<sup>30</sup> Ibid., para. 17.

<sup>31</sup> CRC/C/15/Add.162, para. 6.

<sup>32</sup> Ibid., para. 7.

<sup>33</sup> Ibid., para. 28.

<sup>34</sup> See GA resolution A/RES/59/113B, 14 July 2005, and HRC resolution A/HRC/RES/6/24, 28 September 2007. See also letters from the High Commissioner for Human Rights dated 9 January 2006 and 10 December 2007, available at <http://www2.ohchr.org/english/issues/education/training/Summary-national-initiatives2005-2009.htm>.

<sup>35</sup> The following abbreviations have been used for this document:

CERD	Committee on the Elimination of Racial Discrimination
CESCR	Committee on Economic, Social and Cultural Rights
HR Committee	Human Rights Committee
CEDAW	Committee on the Elimination of Discrimination against Women
CAT	Committee against Torture
CRC	Committee on the Rights of the Child.

<sup>36</sup> E/CN.4/1999/48.

<sup>37</sup> The questionnaires included in this section are those which have been reflected in an official report by a special procedure mandate-holder.

<sup>38</sup> See (a) report of the Special Rapporteur on the right to education (A/HRC/4/29), questionnaire on the right to education of persons with disabilities sent in 2006; (b) report of the Special Rapporteur on the human rights of migrants (A/HRC/4/24), questionnaire on the impact of certain laws and administrative measures on migrants sent in 2006; (c) report of the Special Rapporteur on trafficking in persons, especially women and children (A/HRC/4/23), questionnaire on issues related to forced marriages and trafficking in persons sent in 2006; (d) report of the Special Representative of the Secretary-General on the situation of human rights defenders (E/CN.4/2006/95 and Add.5), questionnaire on the implementation of the Declaration on the Right and Responsibility of Individuals, Groups and Organs of Society to Promote and Protect Universally Recognized Human Rights and Fundamental Freedoms sent in June 2005; (e) report of the Special Rapporteur on the situation of human rights and fundamental freedoms of indigenous people (A/HRC/6/15), questionnaire on the human rights of indigenous people sent in August 2007; (f) report of the Special Rapporteur on trafficking in persons, especially in women and children (E/CN.4/2006/62) and the Special Rapporteur on the sale of children, child prostitution and child pornography (E/CN.4/2006/67), joint questionnaire on the relationship between trafficking and the demand for commercial sexual exploitation sent in July 2005; (g) report of the Special Rapporteur on the right to education (E/CN.4/2006/45), questionnaire on the right to education for girls sent in 2005; (h) report of the Working Group on mercenaries (A/61/341), questionnaire concerning its mandate and activities sent in November 2005; (i) report of the Special Rapporteur on the sale of children, child prostitution and child pornography (A/HRC/4/31), questionnaire on the sale of children's organs sent in July 2006; (j) report of the Special Rapporteur on the sale of children, child prostitution and child pornography (A/HRC/7/8), questionnaire on assistance and rehabilitation programmes for child victims of sexual exploitation sent in July 2007; (k) report of the Special Representative of the Secretary-General on the issue of human rights and transnational corporations and other business enterprises (A/HRC/4/35/Add.3), questionnaire on human rights policies and management practices; (l) report of the Special Rapporteur on the right to education (A/HRC/8/10), questionnaire on the right to education in emergency situations sent in 2007; (m) report of the Special Rapporteur on the right to education (June 2009) (A/HRC/11/8), questionnaire on the right to education for persons in detention; (n) report of the independent expert on the question of human rights and extreme poverty to the eleventh session of the HRC (June 2009) (A/HRC/11/9), questionnaire on Cash Transfer Programmes, sent in October 2008; (o) report of the Special Rapporteur on violence against women, (June 2009) (A/HRC/11/6), questionnaire on violence against women and political economy.

<sup>39</sup> The questionnaire on the right to education of persons with disabilities; joint questionnaire on the relationship between trafficking and the demand for commercial sexual exploitation; the questionnaire on the right to education for girls; and the questionnaire on human rights policies and management practices.

<sup>40</sup> OHCHR's 2008 report on Activities and Results, p. 202.

<sup>41</sup> Ibid.

<sup>42</sup> Ibid.

<sup>43</sup> Ibid.

<sup>44</sup> OHCHR's 2009 report on Activities and Results.

- <sup>45</sup> E/C.12/1/Add.53, para. 18.
- <sup>46</sup> CCPR/CO/78/PRT, para. 20.
- <sup>47</sup> CERD/C/65/CO/6, para. 13.
- <sup>48</sup> Ibid., para. 13.
- <sup>49</sup> E/C.12/1/Add.53, para. 11.
- <sup>50</sup> CERD/C/65/CO/6, para. 9.
- <sup>51</sup> CRC/C/15/Add.162, para.19.
- <sup>52</sup> Ibid., para. 20.
- <sup>53</sup> CEDAW/C/PRT/CO/7, para. 40.
- <sup>54</sup> Ibid., para. 41.
- <sup>55</sup> CCPR/CO/78/PRT, para. 8 (a).
- <sup>56</sup> Ibid., para. 8 (b).
- <sup>57</sup> CERD/C/65/CO/6, para. 10.
- <sup>58</sup> UNHCR submission to the UPR on Portugal, p. 2, citing CERD/C/65/CO/6, para. 10.
- <sup>59</sup> CAT/C/PRT/CO/4, para. 17.
- <sup>60</sup> Ibid., para. 6.
- <sup>61</sup> Comments of the Government of Portugal on the concluding observations of the Human Rights Committee (CCPR/CO/78/PRT/Add.1), recommendation No. 8, para. 8 (a).
- <sup>62</sup> CAT/C/PRT/CO/4, para. 12.
- <sup>63</sup> Comments of the Government of Portugal on the concluding observations of the Human Rights Committee (CAT/C/PRT/CO/4/Add.1), para. 12.
- <sup>64</sup> CEDAW/C/PRT/CO/7, para. 33.
- <sup>65</sup> CAT/C/PRT/CO/4, para. 15.
- <sup>66</sup> Ibid.
- <sup>67</sup> CEDAW/C/PRT/CO/7, para. 33.
- <sup>68</sup> CRC/C/15/Add.162, para. 26.
- <sup>69</sup> Ibid., para. 27 (a) and (b).
- <sup>70</sup> CEDAW/C/PRT/CO/7, para. 31.
- <sup>71</sup> CCPR/CO/78/PRT, para. 11.
- <sup>72</sup> CAT/C/PRT/CO/4/Add.1, para. 10.
- <sup>73</sup> CAT/C/PRT/CO/4, para. 11.
- <sup>74</sup> CAT/C/PRT/CO/4/Add.1, para. 11.
- <sup>75</sup> CCPR/CO/78/PRT, para. 19.
- <sup>76</sup> CRC/C/15/Add.162, para. 48.
- <sup>77</sup> Ibid., para. 49.
- <sup>78</sup> ILO Committee of Experts on the Applications of Conventions and Recommendation, [Individual Direct Request concerning ILO Worst Forms of Child Labour Convention, 1999 \(No. 182\)](#), 2008, Geneva, doc. No. (ILOLEX) 092008PRT182.
- <sup>79</sup> CAT/C/PRT/CO/4, para. 16.

<sup>80</sup> ILO Committee of Experts on the Applications of Conventions and Recommendation, , [Individual Direct Request concerning ILO Worst Forms of Child Labour Convention, 1999 \(No. 182\)](#), 2006, Geneva, doc. No. (ILOLEX) 092006PRT182.

<sup>81</sup> ILO Committee of Experts on the Applications of Conventions and Recommendation, [Individual Direct Request concerning ILO Worst Forms of Child Labour Convention, 1999 \(No. 182\)](#), 2005, Geneva, doc. No. (ILOLEX) 092005PRT182.

<sup>82</sup> ILO Committee of Experts on the Applications of Conventions and Recommendation, [Individual Direct Request concerning ILO Worst Forms of Child Labour Convention, 1999 \(No. 182\)](#), 2008, Geneva, doc. No. (ILOLEX) 092008PRT182.

<sup>83</sup> E/C.12/1/Add.53, para. 14.

<sup>84</sup> Communication No. 1123/2002, *Carlos Correia de Matos v Portugal* (CCPR/C/86/D/1123/2002), para. 8.

<sup>85</sup> CCPR/CO/78/PRT, para. 13.

<sup>86</sup> CAT/C/PRT/CO/4, para. 7.

<sup>87</sup> CAT/C/PRT/CO/4/Add.1, para. 3(a).

<sup>88</sup> CCPR/CO/78/PRT, para. 14.

<sup>89</sup> *Ibid.*

<sup>90</sup> CEDAW/C/PRT/CO/7, para. 33.

<sup>91</sup> CCPR/CO/78/PRT, para. 6.

<sup>92</sup> CEDAW/C/PRT/CO/7, paras. 36-37.

<sup>93</sup> *Ibid.*, para. 37.

<sup>94</sup> United Nations Statistics Division coordinated data and analyses, available at <http://mdgs.un.org/unsd/mdg>.

<sup>95</sup> CEDAW/C/PRT/CO/7, para. 41.

<sup>96</sup> ILO Committee of Experts on the Applications of Conventions and Recommendation, [Individual Direct Request concerning ILO Equal Remuneration Convention, 1951 \(No. 100\)](#), 2007, Geneva, doc. No. (ILOLEX) 092007PRT100, para. 2.

<sup>97</sup> CEDAW/C/PRT/CO/7, para. 41.

<sup>98</sup> ILO Committee of Experts on the Applications of Conventions and Recommendation, [Individual Direct Request concerning ILO Minimum Age Convention, 1973 \(No. 138\)](#), 2008, Geneva, doc. No. (ILOLEX) 092008PRT138.

<sup>99</sup> CERD/C/65/CO/6, para. 13.

<sup>100</sup> CCPR/CO/78/PRT, para. 20.

<sup>101</sup> CERD/C/65/CO/6, para.12.

<sup>102</sup> E/C.12/1/Add.53, para. 16.

<sup>103</sup> CEDAW/C/PRT/CO/7, para. 45.

<sup>104</sup> WHO, World Health Statistics 2008, Geneva, 2008, p. 3, available at [http://www.who.int/whr/2008/whr08\\_en.pdf](http://www.who.int/whr/2008/whr08_en.pdf).

<sup>105</sup> United Nations Statistics Division coordinated data and analyses, available at <http://mdgs.un.org/unsd/mdg>.

<sup>106</sup> UNAIDS/WHO Epidemiological Fact Sheets on HIV and AIDS, 2008 Update, Geneva, 2008, p. 4, available at [http://apps.who.int/globalatlas/predefinedReports/EFS2008/full/EFS2008\\_PT.pdf](http://apps.who.int/globalatlas/predefinedReports/EFS2008/full/EFS2008_PT.pdf).

<sup>107</sup> CEDAW/C/PRT/CO/7, para. 43.

<sup>108</sup> ILO Committee of Experts on the Applications of Conventions and Recommendation, [Individual Direct Request concerning ILO Worst Forms of Child Labour Convention, 1999 \(No. 182\)](#), 2008, Geneva, doc. No. (ILOLEX) 092008PRT182.

<sup>109</sup> CRC/C/15/Add.162, para. 42.



<sup>110</sup> CEDAW/C/PRT/CO/7, para. 49.

<sup>111</sup> CCPR/CO/78/PRT, para. 12.

<sup>112</sup> CCPR/CO/78/PRT/Add.1, recommendation 12.

<sup>113</sup> CERD/C/65/CO/6, para. 15.

<sup>114</sup> CEDAW/C/PRT/CO/7, para. 7.

<sup>115</sup> UNHCR submission to the UPR on Portugal, p. 1, citing CEDAW/C/PRT/CO/7, para. 7.

<sup>116</sup> Ibid.

<sup>117</sup> CRC/C/15/Add.162, para. 47.

<sup>118</sup> CCPR/CO/78/PRT, para. 15.

<sup>119</sup> Ibid.

<sup>120</sup> ILO Committee of Experts on the Applications of Conventions and Recommendation, [Individual Direct Request concerning ILO Worst Forms of Child Labour Convention, 1999 \(No. 182\)](#), 2006, Geneva, doc. No. (ILOLEX) 092006PRT182.

<sup>121</sup> Pledges and commitments undertaken by Portugal before the Human Rights Council, as contained in the note verbale dated 5 April 2006 sent by the Permanent Mission of Portugal to the United Nations addressed to the President of the General Assembly, available at <http://www.un.org/ga/60/elect/hrc/portugal.pdf>.

<sup>122</sup> CAT/C/PRT/CO/ 4, para. 14.

<sup>123</sup> CEDAW/C/PRT/CO/7, para. 54.

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