



**International Convention
on the Elimination
of all Forms of
Racial Discrimination**

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COMMITTEE ON THE ELIMINATION
OF RACIAL DISCRIMINATION
Sixty-fifth session
2-20 August 2004

**CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION**

**Concluding observations of the Committee on the
Elimination of Racial Discrimination**

PORTUGAL

1. The Committee considered the tenth and eleventh periodic reports of Portugal, submitted as one document (CERD/C/447/Add.1), at its 1660th and 1661st meetings (CERD/C/SR.1660 and 1661). At its 1670th meeting (CERD/C/SR.1670), held on 19 August 2004, it adopted the following concluding observations.

A. Introduction

2. The Committee welcomes the timely submission of the report by the State party, the additional oral and written information provided by the delegation as well as the constructive responses provided to the questions asked. However, the Committee notes that the structure of the report does not fully comply with its reporting guidelines.

B. Positive aspects

3. The Committee welcomes the enactment of Decree Law 251/2002 of 22 November 2002 which, inter alia, enlarges the structure and competencies of the Office of the High Commissioner for Immigration and Ethnic Minorities and 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.

4. The Committee welcomes the fact that the financial budget of the Office of the High Commissioner for Immigration and Ethnic Minorities has recently been considerably increased.

5. The Committee notes with appreciation the work performed by the Office of Multiculturalism, especially in promoting numerous programmes and projects in the field of education in respect of children belonging to ethnic minorities, in particular Roma/gypsies.

6. The Committee also welcomes the several mechanisms established to assist immigrants in Portugal, such as the Observatory of Immigration, the Call Centre “SOS Immigrant” and the local and national support centres for immigrants.

7. The Committee further notes with satisfaction the prohibition, as a result of the fourth revision of the Constitution, of racist organizations (organizations adopting a fascist ideology having already been banned).

C. Concerns and recommendations

8. The Committee notes the absence of statistical data on the ethnic composition of the population owing to the State party’s legislation, which prohibits the collection of data and statistics on race and ethnicity.

The Committee is of the opinion that, if progress in eliminating racial discrimination based on race, colour, descent, and national and ethnic origin is to be monitored, some indication is needed of the number of persons who could suffer discrimination on these grounds. The Committee therefore recommends that, in line with paragraph 8 of the reporting guidelines, the State party provide information on the use of mother tongue as indicative of ethnic differences, together with information derived from targeted social surveys performed on a voluntary basis and in full respect of the privacy and anonymity of the individuals concerned.

9. While noting the efforts undertaken by the State party to counter racially motivated violence and discrimination, the Committee continues to be concerned that racially motivated acts and incitement to hatred continue to occur and that intolerance and de facto discrimination, in particular towards ethnic minorities, persist. Furthermore, the Committee is concerned about the activities of the National Renovation Party, which targets immigrants in its manifestos and campaigns.

The Committee recommends that the Government pursue and intensify its efforts to eradicate all incitement to, and acts of, racial discrimination. In this respect, in light of its general recommendation XXX, the Committee recommends that the State party introduce in its criminal law a provision to the effect that committing an offence with racist motivation or aim constitutes an aggravating circumstance. The Committee would also appreciate more detailed information on the procedure applicable to and the authorities competent to deal with cases of organizations reported to be racist.

10. The Committee expresses concern about allegations it has received of instances of police misconduct towards ethnic minorities or persons of non-Portuguese origin, including excessive use of force, ill-treatment and violence.

The Committee recommends that the State party investigate thoroughly, impartially and effectively all allegations of ill-treatment, violence or excessive use of force by police officers, bring those responsible to justice and provide adequate remedies and compensation to the victims. Furthermore, in light of its general recommendation XIII, the Committee recommends that the State party continue to provide intensive training to law enforcement officials so as to ensure that in the performance of their duties they respect and protect human dignity

and maintain and uphold the human rights of all persons without distinction as to race, colour, descent, or national or ethnic origin.

11. The Committee notes that immigrants from Central and Eastern Europe are reportedly more easily accepted and integrated into Portuguese mainstream society than other immigrants, especially Africans. The Committee expresses concern that this phenomenon of “two-speed” integration may result in de facto discrimination against certain groups of immigrants.

The Committee recommends that the State party take all possible measures to promote and ensure the enjoyment of equal opportunities to all immigrants in the country, irrespective of their origin.

12. The Committee is concerned about the relative isolation of some groups of immigrants and members of ethnic minorities in marginalized neighbourhoods or areas and their difficult situation in respect of housing conditions.

The Committee encourages the State party to continue taking 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.

13. While the Committee notes the measures taken by the State party to improve the situation of Roma/gypsies, it remains concerned about the difficulties faced by many members of this community in the fields of employment, housing and education, as well as reported cases of discrimination in daily life. The Committee also invites the State party to take more effectively into account, in all programmes and projects planned and implemented and in all measures adopted, the situation of Roma/gypsy women, who are often victims of double discrimination.

The Committee urges the State party to continue taking special measures in accordance with article 2, paragraph 2, of the Convention to ensure the adequate protection of Roma/gypsies and to promote equal opportunities for the full enjoyment of their economic, social and cultural rights.

14. The Committee notes the new rules for family reunification following the recent enactment of new legislative provisions governing the entry, stay, departure and removal of aliens from the national territory.

The Committee recommends that the State party take measures to facilitate family reunification of immigrants in a regular situation. Furthermore, the Committee invites the State party to consider signing and ratifying the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

15. The Committee is concerned 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 of the administrative authorities were to be overturned on appeal.

The Committee urges the State party 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.

16. The Committee strongly recommends that the State party ratify the amendments to article 8, paragraph 6, of the Convention, adopted on 15 January 1992 at the Fourteenth Meeting of States Parties to the Convention and endorsed by the General Assembly in its resolution 47/111. In this connection, the Committee refers to General Assembly resolution 57/194, in which the Assembly strongly urged States parties to accelerate their domestic ratification procedures with regard to the amendment and to notify the Secretary-General expeditiously in writing of their agreement to the amendment. A similar appeal was reiterated by the Assembly in resolution 58/160.

17. The Committee recommends that the State party take into account the relevant parts of the Durban Declaration and Programme of Action when implementing the Convention in the domestic legal order, in particular in respect of articles 2 to 7 of the Convention, and that it include in its next periodic report information on action plans or other measures it has taken to implement the Durban Declaration and Programme of Action at the national level.

18. The Committee encourages the State party to continue consulting with organizations of civil society working in the area of combating racial discrimination during the preparation of the next periodic report.

19. The Committee recommends that the State party's reports be made readily available to the public from the time they are submitted and that the observations of the Committee on these reports be similarly publicized.

20. The Committee recommends that the State party submit its twelfth and thirteenth periodic reports jointly, due on 23 September 2007, and that it address therein all points raised in the present concluding observations.
