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

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

(received on 26 April 2010)



PRESIDÊNCIA DO CONSELHO DE MINISTROS
Alto Comissariado para a Imigração e Diálogo Intercultural, I.P.

Comments and Inputs regarding the Second Opinion of the Advisory Committee on the Framework Convention for the Protection of National Minorities (Portugal)

GENERAL REMARKS

Previous Note

As stated before, Portugal has no national minorities and has ratified the Framework Convention for the Protection of National Minorities (FCPNM) in an act of political solidarity, having in mind the historic question of the “nationalities”, in the Central and Eastern part of Europe, and aiming at reinforcing peace and stability in the European continent.

The FCPNM does not define what National Minority is - it belongs to each State to do so, according to its legal system, its political conceptions, its cultural and social *de facto* situation - and it does not exist in the Portuguese legal system either a legal definition of this concept or the acknowledgement of its existence.

In fact, Portugal is, perhaps, the only country of Europe whose frontiers as State and as Nation have been perfectly and secularly coincident in the last 800 years.



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This fact does not collide with the phenomenon of immigration in our country - that is also not recognized as a national minority by other European countries - as well as the existence of one ethnic minority, the Roma community.

Accordingly and based on this assumption, we will comment on the relevant aspects regarding of this Second Opinion of the Advisory Committee.

Furthermore, there are allegations on this Second Opinion Report that we were unable to comment because, in our view, are not sufficiently documented.

Finally, we acknowledge with satisfaction the recognition by the Advisory Committee - Paragraph 17 - that the “*policy of integration of immigrants, which started a few years ago, has been pursued*”, following the recognition by the United Nations under the Human Development Report 2009, that Portugal is the highest ranked country in the world regarding the allocation of rights and provision of support services to immigrants, and that the essential of this Second Opinion Report is focused on the Roma Community,

Paragraph 7, page 2 [Main Findings]

As requested in this paragraph, this report and our comments can be turned public by the Advisory Committee.



Paragraph 10, page 3 [Scope of application of the Framework Convention] and Paragraph 26, page 5, of Article 3 of the Framework Convention

It is important to state that the concept of national minority does not exist in the Portuguese Law. The Roma Community is recognized by Portugal as an ethnic minority. However, it is important to take note that this fact did not prevent Portugal to implement specific policies regarding the Roma communities, taking in account their specific traditions and cultural identity.

In general, all Roma communities have had Portuguese citizenship for centuries, and they are covered by the measures and have full access to the rights that are accessible to the general population (i.e. in the same conditions as the non Roma Citizens). Consequently, when they are in social situations of poverty and exclusion, they can have access to an important set of public programmes and measures. Among those measures are the Integration Social Income, housing programmes, measures for social protection and social support for education, side by side with specific measures of positive discrimination towards the social inclusion of the Roma communities such as the special integration measures established in the National Action Plan for Inclusion (*Plano Nacional de Acção para a Inclusão - 2008-2010*).

Paragraph 13, page 3 [General legislative and institutional framework], Paragraph 23, page 4,[Participation], Paragraph 99, page 14, [Article 15 of the Framework Convention]



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The project G9 was the inspiration model that led to the creation of the **Pilot Project for Municipal Mediators (mentioned on paragraph 64)** managed by the ACIDI, (with the support of the Institute of Social Security), to provide intercultural training in the fields of mediation, public institutions functioning and communication – in order to place fifteen Roma municipal mediators in local municipalities, so that they can establish a straight relation between municipalities and civil services and local Roma communities.

To achieve this, ACIDI made a call for proposals to all Portuguese municipalities. Each of those municipalities should establish partnerships with local organisations and identify, in local Roma communities, potential municipal mediators, to apply for the call.

As a result, several Portuguese municipalities, from all over the country, answered ACIDI's call showing the need for this kind of policies as well as how the referred project would respond to Roma and non-Roma communities needs. Therefore, this Pilot Project established a greater cooperation between national and local level decision making processes, concerning Roma issues that will benefit Roma communities both locally and nationally.

This Project also resulted in the creation of local and national network between municipalities and their partners, national authorities and Roma mediators that will reinforce intercultural dialogue and proximity in this thematic field between all its players.



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At the end of its first year of implementation, there was an evaluation report that indicated that this Project had a positive impact in to the improvement of Roma communities' situation in Portugal and that it should be implemented in other municipalities.

Finally, it should be mentioned that part of the mediators that worked in the G9, are presently working under this Project and informal consultations continue to be established with all the members of that group.

Paragraph 14, page 3 [Anti-discrimination] and Paragraph 37, page 7 [Protection against discrimination]

Regarding the High Commission for Immigration and Intercultural Dialogue “ACIDI” and the Commission for Equality and Against Racial Discrimination “CEARD”, there differences should be clarified. ACIDI is a public institute integrated in the Public Administration that is chaired by the High Commissioner for Immigration and Intercultural Dialogue. CEARD is an independent Commission that includes representatives elected by Parliament, designated by the Government, as well as representatives from the employers associations, trade unions, immigrants associations, NGO’s and civil society, including, presently, a Roma representative. Although CEARD functions at the head office of ACIDI and is chaired by the High Commissioner. Its decisions are taken by majority of its members. In a total of 18 are 3 Government representatives.



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Therefore, the remark on paragraphs 37 and 39, establishing a relationship between the alleged backlog of cases of the ACIDI/CEARD and its alleged lack of independence is not correct.

It is not true that there is a “backlog of around 300 pending cases”. Regarding the administrative offences of racial discrimination received by ACIDI/CEARD : from 2006 until October 2009, there were 78 processes of administrative offences of which 28 are closed and 50 are still under investigation by the competent Inspectorate General or in appeals. We dispute that the backlog is due to ACIDI/CICDR having “protracted” the procedures, as mentioned in the paragraph 37.

Paragraph 16, page 4 [Anti-discrimination], Paragraph 54, page 9, [Combating discrimination against Roma]

Regarding the allegation that some Roma families are compelled to move, from place to place, because of the alleged lack of registration in a given municipality, there is no requirement under Portuguese law that a citizen has to be registered in any municipality, in order to stay or live there. If any municipality would have made such demand to citizens of the Roma community, it would be in violation of the Portuguese Law, namely, the Portuguese Constitution - Article 13º-.. ACIDI/CEARD has not received any recent complaint on that matter.

Paragraph 21, page 4 [Education], Paragraphs 86 to 95, pages 13 and 14 [Roma in the educational system]



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Regarding the intercultural teaching and the recommendation to make textbooks more sensitive to the Roma cultural heritage, the edition of the following books should be mentioned:

- **Collection “Olhares”:**

- *“Pontes para outras viagens – Escola e comunidade cigana: Representações recíprocas” “Bridges to other trips - School and Roma: Reciprocal Representations”* – Luiza Cortesão, Stephen Stoer, Maria José Casa-Nova, Rui Trindade - Edition February 2005;

- *“Saúde / Doença – É questão de Cultura - Atitudes e comportamentos de saúde materna nas mulheres ciganas em Portugal” - “Health / Disease - It's about culture - Attitudes and behaviours of maternal health in the Roma women in Portugal”* – Luísa Ferreira da Silva - Edition April 2005;

- *“Representações Sociais das Comunidades Cigana e Não – Cigana” - “Social Representations of the European Roma and Non - Roma”* – Ernesto Fonseca, José Marques, Jorge Quintas, Gabrielle Poeschl - Edition May 2005;

- *“Coexistência Inter-Étnica, Espaços e Representações Sociais – Os Ciganos vistos pelos outros” - Inter-Ethnic Coexistence, Spaces and Social Representations - Roma seen by the others”*



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– Isabel Duarte, Alexandra Castro, Joana Afonso, Mafalda Sousa, Margarida Salgueiro, Maria José Lobo Antunes – Edition August 2005;

- *“Tradição e Prospectiva nos Meandros da Economia Cigana”* -
“Tradition and Prospect on the Roma Economy” – Alda Gonçalves, Orlando Garcia, Pedro Barreto – Edition January 2006;

- *“Comunidades ciganas – Representações e dinâmicas de exclusão/integração”* – *“Roma Communities - Representations and dynamics of exclusion / integration”*

– Eduardo Dias, Isabel Alves, Nuno Valente, Sérgio Aires – Edition January 2006;

- *“Comunidades Ciganas – Representações Sociais da Comunidade Cigana na Sociedade Portuguesa”* - *“Roma Community - Social Representations of the Roma Community in the Portuguese Society”* – Luís Faísca, Jorge Jesuíno – Edition October 2006;

- *“Etnografia e Produção de Conhecimento – Reflexões críticas a partir de uma investigação com ciganos portugueses”* – *“Ethnography and Production of Knowledge - Critical reflections based on research with Portuguese Roma”*

– Maria José Casa-Nova – Edition November 2009;

- *Ciganos Aquém do Tejo* – Projecto Nómada – Instituto das Comunidades Educativas – Edition September 2004;



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- *“A Escola é uma Esperança – Sugestões para Famílias de Etnia Cigana” – “The school is a Hope - Tips for Roma Families”* – Maria Helena Noronha – Edition January 2003;

- *Ciganos e Degredos – “Roma and exile”* – António Gómez Alfaro, Elisa Costa, Sharon Floate – Edition 1999;

- *Minoria e escolarização: O rumo cigano – “Minorities and schooling: The Roma way”* – Jean Pierre Leégeois – Edition 2001;

- *“Que sorte, Ciganos na nossa escola!” – “How lucky, Roma in our school!”* - Carlos Cardoso, Carlos Sousa, Elisa Costa, Elisabete Mateus, José Pena, Maria Chaves, Mercedes Torres, Mirna Montenegro, Teresa Fernandes Tiago Martins – Edition 2001;

- *“Educação Intercultural – Guia do professor – Crianças Ciganas” – “Intercultural Education – Teacher’s Guide - Roma Children”* – Ministry of Education – August 2005;

Regarding the Programme “Entreculturas”, mentioned in paragraph 63, it is important to stress that the referred programme, established in 1991, was designed to help public schools in dealing deal with the increase of foreign students and social, cultural and ethnic diversity. A large range of activities were developed to raise awareness in schools and in other educational stakeholders towards intercultural education, as a mean to



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facilitate immigrants and ethnic minorities integration , namely, in schools, and ensure better social cohesion and equal opportunities.

Recognizing that the problems and challenges regarding the integration of Roma and of Immigrant citizens are far beyond the answers that may be given within the education system, ACIDI created a special team of trainees (“*Bolsa de Formadores*”) to provide training in awareness-raising and mobilization actions at the local level to promote intercultural Dialogue and integration. This team allows ACIDI to build capacity among different institutions involved in the process of welcoming and integrating immigrants and ethnic minorities in Portugal, including public and private organisations. These training is provided at no cost to those institutions.

ACIDI is promoting the production of a theatre play, where the Roma community will be the central theme in order to promote its culture.

The Particular case of School of “Barqueiros” (Paragraph 92)

As stated in Paragraph 92 of the Second Opinion of the Advisory Committee on the Framework Convention for the Protection of National Minorities, there is a school, in the city of Barqueiros, where some Roma students were separated from the other students of the school.

CEARD received a racial discriminatory complaint in October 2010 regarding this case and according to the Law 18/2004 an investigation was conducted by the General Inspection of Education. Its final report was



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sent to the CEARD to issue a nonbinding legal advise, The High Commissioner for Immigration and Intercultural Dialogue took a decision based on this advise that is yet to be made public.

Paragraph 64, page 10 [Article 6 of the Framework Convention – Integration and Tolerance]

Regarding the **Choices Programme** (currently in its fourth phase, until 2012), it is important to stress that 16 projects were established targeting the Roma Children, in order to promote their social integration (further at <http://www.programaescolhas.pt/>) This is a governmental programme, with a budget of Euros 38.000.000, 00 (thirty-eight million euros), managed and coordinated by the ACIDI, that is implemented throughout the country.

Paragraph 80, page 12 [Police and minorities]

On the question of the relationship of immigrants and ethnic minorities with law enforcement officials, several joint activities by the security forces with the Portuguese NGO “Portuguese Association for Victim Support”, the High Commission for Immigration and Intercultural Dialogue, other Government agencies and NGO’s, Universities, Municipalities and other partners have been developed under the “Integrated Proximity Policing Programme” (*Programa Integrado de Policiamento de Proximidade*), Such is the case with the 2007 seminar about “*Building Proximity Relationships: Policing and Civic Participation of Immigrants and their Descendants*”.



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Specific training has also been developed by the security forces to cover these areas, such as the Training Course for Trainers under the Integrated Proximity Policing Programme, that includes specific training on racism and xenophobia.

In 2007 and 2008, the Public Security Police also organized, in cooperation with Amnesty International, nine training sessions on human rights and ethnic minorities' issues, in which 170 police officers participated at national level,