



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

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Summary record of the 2137th meeting

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Chairperson: Mr. Avtonomov

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The meeting was called to order at 3.10 p.m.

**Consideration of reports, comments and information submitted by States parties
under article 9 of the Convention** (*continued*)

*Combined twelfth to fourteenth periodic reports of Portugal (CERD/C/PRT/12-14;
CERD/C/PRT/Q/12-14)*

1. *At the invitation of the Chairperson, the delegation of Portugal took places at the Committee table.*

2. **Ms. Farmhouse** (Portugal) said that her Government had established the National Human Rights Commission in March 2010 in order to coordinate the work of public bodies responsible for human rights and, in particular, to avoid excessive delays in the submission of reports to treaty bodies. Portugal was a multicultural country and, on the whole, very tolerant of immigrants, as had been shown in the 2011 EU-wide Eurobarometer on Migrant Integration survey, in which it had emerged that the Portuguese did not consider immigration to be a problem. The country had implemented a policy, the hallmarks of which were integration and respect for all immigrants' fundamental rights, to actively combat racial discrimination. Those efforts had received due recognition from the international community through Portugal's second-place position in 2011 in the European Migrant Integration Policy Index (MIPEX) rankings, which demonstrated the effectiveness of the cross-cutting policy of promoting human rights for all, as implemented by the High Commission for Immigration and Intercultural Dialogue (ACIDI). Equally noteworthy had been the adoption of the Nationality Act of 2006, which favoured second- and third-generation immigrants by strengthening the principle of *jus soli*, and the Immigration Act of 2007. The two national action plans for the integration of immigrants set in motion since 2007 concentrated on a variety of issues, including employment, health care, education and the promotion of diversity, and involved 10 different ministries.

3. In 2007, the Government had enhanced the powers and reach of ACIDI, which had become a public entity. The national integration policy was based on respect for human rights rather than assimilation; an approach that had led to the creation of various bodies, such as the Immigration Observatory and local and national immigrant support centres that provided support services to all immigrants free of charge. The Choices Programme, implemented with the help of local authorities and civil society organizations, had made it possible to re-enrol 4,000 disadvantaged migrant children in school between January 2010 and December 2011. As part of a pilot project for intercultural mediation in the public services, coordinated by ACIDI and supported by the European Fund for the Integration of Third-country Nationals, 28 mediators had been appointed to posts in such areas of the public service as health care, the police and education, in order to increase public awareness of diversity and intercultural dialogue. The programme would be renewed in March 2012 with the aid of a score of mediators.

4. An array of initiatives was being undertaken to raise the awareness of teachers, civil servants and social workers and train them in order to smooth the process of integrating immigrants into the education system and society at large. Immigrants had access to various services (such as an information hotline, interpreting services and information on their rights and obligations) and received considerable media exposure through television and radio broadcasts. Guided by ACIDI and the Portuguese Commission for Equality and against Racial Discrimination, efforts were being made to increase media awareness of human rights, the need to promote intercultural dialogue and efforts to combat racism and xenophobia. Some 100 journalists had attended awareness-raising workshops on migration issues, and Portugal's public television body had established a code of ethics, taking its cue from a guide to diversity published by the European Union Agency for Fundamental Rights. Also worthy of mention were a photography and video competition against racial

discrimination, organized in 2010 by CICDR, and awareness-raising activities on racial discrimination in the field of sport.

5. Portugal had a full battery of laws designed to prevent and punish all forms of discrimination and all acts of incitement to racial hatred or race-based violence. Racially motivated offences (assault causing bodily harm or murder) were considered to be an aggravating circumstance. Direct and indirect discrimination were prohibited in employment, regardless of whether motivated by race or ethnic background, ancestry, nationality, or place of origin. The burden of proof lay with the employer when it came to demonstrating the absence of discrimination. Victims of discrimination were entitled to various forms of reparation. The labour inspectorate, which was responsible for investigating allegations of discrimination in the employment, had received 14 complaints in 2009, 5 in 2010 and 26 in 2011.

6. Anyone could assert their rights before the Commission for Equality against public service bodies if they felt that they had been the object of racial discrimination. The Commission had received 111 complaints of racial discrimination in 2011, mainly from Brazilians, as opposed to 89 in 2010. Victims of discrimination could also complain to the Office of the Ombudsman, which functioned as a national human rights institution. The State party had established various legal aid and social support mechanisms and services for victims of racial discrimination, including the Immigrant Legal Aid Office (responsible for providing free consultation and mediation services to immigrants in various areas, including employment and social security) and the Support Unit for Immigrant Victims of Ethnic or Racial Discrimination (responsible for providing free and confidential psychosocial and legal support to immigrant victims of racial discrimination). The Unit had helped 61 people in 2011.

7. The State party had three programmes for the Roma community, which was especially vulnerable to discrimination: a pilot project for the appointment of Roma mediators in municipalities, aid projects for Roma children under the Choices Programme, and an integration strategy for the Roma communities, which was currently under consideration. Anti-discrimination efforts in Portugal were unrelenting, although much remained to be done. The Government intended to review the Act whereby European Union Council Directive 2000/43/EC, on the implementation of the principle of equal treatment between persons irrespective of racial or ethnic origin, had been transposed into domestic legislation, which had proven to be largely ineffective as far as the prevention and stamping out of racial discrimination were concerned. Moreover, given the very few complaints filed for discrimination, there was awareness-raising work to be done among the communities and groups most likely to face discrimination — in other words, immigrants and Roma — of the institutions which they could approach for help. Coordinated measures were required at all levels to ensure that Roma communities could exercise their human rights, particularly in the areas of adequate housing, drinking water and sanitation.

8. Portugal was determined to meet its national and international human rights obligations. Efforts to combat discrimination lay at the heart of its human rights policy. In that connection, it was participating in the implementation of the Durban Declaration and Programme of Action and had signed the political declaration adopted on the occasion of the 10th anniversary of the Durban Conference. It was firmly of the view that the treaty bodies and special procedures of the Human Rights Council played a key role in efforts to combat human rights violations, and the promotion of human rights for all.

9. **Ms. Crickley** (Country Rapporteur) asked about the measures taken to combat racial discrimination in Portugal's autonomous regions of the Azores and Madeira, which had not been mentioned in the report. She was concerned that civil society had not been mentioned either in the report or by the delegation in its oral presentation. She would like to know what problems had been encountered by the Consultative Council for Immigration Affairs

(COCAI) and the Commission for Equality, which had the particular task of transposing European Union directives on combating racial discrimination into domestic legislation.

10. She welcomed the second plan for the integration of immigrants and Portugal's positive response to recommendations resulting from the universal periodic review, but regretted the absence of a consistent and exhaustive data-gathering system that would enable a clear assessment of the situation of minority groups. Although data protection legislation expressly forbade the processing of personal data regarding racial and ethnic origin, she would still like to know whether progress had been made in monitoring the ethnic make-up of the population. According to the European Commission against Racism and Intolerance (ECRI), there were around 2,000 undocumented immigrants in Portugal who did not benefit from the policy of integration and whose fate depended on the good will of their employers. Ministry of Labour statistics for the year 2008 showed that migrant workers were paid less than Portuguese employees for the same work, and that women earned less than men. Migrant women thus faced multiple discrimination and she invited the delegation to address the issue.

11. As far as the Roma were concerned, she was disappointed by the information contained in the report, which demonstrated that helping their community was not a matter of priority. The Roma faced difficulties in terms of access to public services and in the areas of housing and education. They were the object of racist remarks by political figures and the media. She would like to know about concrete provisions of the Roma integration strategy designed to combat racial discrimination and the other forms of oppression faced by the Roma and how their involvement in its implementation would be ensured.

12. She asked whether the awareness-raising programmes mentioned by the delegation had been affected by the economic crisis. Lastly, she requested further information about the awareness-raising strategies on racism put in place in conjunction with the media and about the impact of the Choices Programme.

13. **Mr. Diaconu** said that the efforts undertaken by Portugal to protect and integrate immigrants were exemplary and he welcomed the fact that migrant children were taught in their native language while studying Portuguese as a second language. The Portuguese Constitution did not set forth clearly that the Convention and other international human rights treaties, in the same way as European instruments, took precedence over domestic law and the State party should act to remedy that shortcoming.

14. With regard to racial motivation as an aggravating circumstance in sentencing, the Criminal Code referred to the feelings expressed by offenders. Such a subjective notion was difficult for courts to assess and the law should be clearer on that point. He regretted that the report did not describe the ethnic minorities present in Portugal and its autonomous regions and asked, in particular, for more details about the community of Miranda do Douro, whose language, *Mirandês*, was an official language of Portugal. He would like to know more about the economic, social and education situation of the Roma, and about their involvement in public life. He recommended that the State party should ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

15. **Mr. Murillo Martínez** welcomed the frankness with which the delegation of Portugal had described the situation in the country with regard to xenophobia, racism and racial discrimination, and Portugal's innovative migrant initiatives, in particular the creation of the SOS Imigrante telephone hotline and the telephone interpreting service for immigrants. Nevertheless, he said that some concerns remained. Portugal had absorbed a good number of new immigrants who, according to available information, were struggling to integrate. He asked what measures the Portuguese authorities were contemplating in order to rectify that situation.

16. He would like information on the results of a complaint of racial discrimination lodged against a person or persons unknown in the case of false rumours of alleged kidnappings of children in Chinese shops for the purpose of organ-trafficking, which had been spread by e-mail in order to dissuade the public from entering those shops. He also invited the delegation to provide details on the mandate and areas of competence of the Socio-Cultural Mediator.

17. **Mr. Lindgren Alves** said that in his time as a member of the Committee he had never read such an exceptional periodic report, from the point of view both of the State party's frankness and of the wealth of information on what it was doing to combat all forms of discrimination, especially against foreigners and new immigrants. The State party had stated, rightly, that racism could only be combated through integration and, at the same time, had shown no qualms in recognizing the obstacles that it was encountering on the way to achieving that goal. Innovative initiatives such as the creation of cultural mediator teams responsible for improving the flow of information to immigrant communities on their rights and obligations and on what was available from integration services, and the setting up of a telephone interpreting service for immigrants, were praiseworthy and set an example that should be followed by all other European countries.

18. He asked for additional information on ACIDI's area of competence and, more particularly, on how it promoted a multicultural approach through intercultural and interreligious dialogue and enhanced cultural diversity through mutual respect. He would like to know what had been done to implement Commission for Equality recommendation to the Government published in 2006 that information on the nationality, ethnic origin, religion or migration status of alleged offenders should not be publicized, it having no direct bearing on such cases.

19. **Mr. de Gouttes** requested additional information on immigrant associations that could appear in court on behalf of victims of racist acts, on the status of the Socio-Cultural Mediator and on the local and national immigrant support centres. Pointing out that, under Portuguese criminal law, racial motives were considered to be an aggravating circumstance only in some cases, in other words those of murder and assault causing bodily harm, he wished to know what progress ACIDI had made on plans to submit draft legislation to Parliament or the Government introducing an aggravating circumstance applicable to all criminal offences. The delegation might explain how the system of the burden of proof applied to civil cases involving racism.

20. Although the periodic report under consideration provided several examples of cases involving acts of racism, particularly in paragraphs 203 to 206, he regretted the lack of comprehensive statistics, especially on rulings in criminal cases. He would therefore like the delegation to provide information on the number of prosecutions of cases of ill-treatment, acts of violence or excessive use of force by the police and law enforcement officials, recalling that the Committee had already requested such information in its concluding observations of 2004 (CERD/C/65/CO/6). Examples of convictions in cases of discrimination in employment would also be welcome. He would also like to know whether the Ombudsman had intervened in any cases other than the one mentioned in paragraph 208 of the report and whether NGOs had in fact represented victims in criminal proceedings for xenophobia or racism offences (*actio popularis*) in line with Act No. 20/96 of 6 July 1996.

21. Noting that the delegation of Portugal had referred in its opening statement to a lack of complaints for racist acts, he drew of the State party's attention to the Committee's general recommendation No. 31 on the prevention of racial discrimination in the administration and functioning of the criminal justice system, to the effect that the absence or small number of complaints, prosecutions and convictions relating to acts of racial discrimination should not be viewed as necessarily positive, because it might also be that victims were not fully aware of their rights, feared social censure or reprisals and worried

about the cost and complexity of the judicial process; that there was a lack of trust in the police and judicial authorities; or that those authorities were insufficiently alert to or aware of offences involving racism.

22. **Mr. Ewomsan**, concerned by the persistence of racism based on stereotypes and prejudices and by the growth in the number of racist movements that spread xenophobic propaganda on the Internet, asked what measures the State party was contemplating in order to remedy the situation. At the same time and in spite of measures taken by Portugal to improve their situation, the Roma continued to be marginalized and to face exclusion in the areas of education, housing, employment and health care. He invited the delegation to provide information on planned additional measures designed to further improve matters. Lastly, he would like to know what measures had been adopted or devised so as better to take into account the problems of racism faced by people of African descent.

23. **Mr. Lahiri** asked the delegation to provide the Committee with detailed statistics on the ethnic make-up of the population. He would like, in particular, to receive more information on the 50,000 new immigrants in the country, the regions in which most of them had settled and the kind of educational establishments attended by children of immigrants.

24. **Mr. Vázquez**, surprised that the Roma constituted the sole recognized ethnic group in Portugal, asked whether the failure to recognize other minority groups, such as those of African and Asian descent, had any impact on their members, for instance in legal terms. Since no form of positive action was sanctioned under the Constitution or the law to facilitate the entry by members of groups that were protected by the Convention into the State party's security forces and law enforcement agencies, was the Government unable to adopt special measures to increase the number of members of ethnic minorities in those forces? He would also like to know whether the provision applied only to the security forces or whether special measures in general were prohibited under the Constitution. He would like to know whether international instruments such as the Convention were automatically incorporated into domestic law and could be applied directly by the courts.

25. **Ms. Dah** asked whether Portugal adhered to the definition of racial discrimination contained in article 1 of the Convention. Since the Constitution did not authorize the gathering of statistics disaggregated by ethnic origin or minority group, she would like to know how the authorities, in the absence of such data, measured the effectiveness of anti-discrimination measures. She would like the delegation to explain why the State party opposed special measures and how it viewed the idea of ethnic minorities' self-identification.

26. **Mr. Thornberry**, noting that Portugal was endeavouring to promote the learning of Portuguese as a second language among migrants, asked how their first languages fitted into that policy of integration, to what extent those languages were taken into consideration in schools or in adult education, and whether there was any support programme for learning them. He also wished to learn how Portuguese history, in particular the colonial era, was presented in school textbooks. Recalling a recent clash involving players of a Manchester football club and two Porto players of African origin, he wondered what the outcome had been and what legal approach Portugal had adopted to deal with such racially motivated cases.

27. **Mr. Calí Tzay** asked how Portugal was dealing with the growing number of complaints of racism, especially against the Roma. He welcomed the fact that fewer anti-Semitic acts were committed in Portugal than in other European countries, but was disconcerted by reports that the extreme right and racist groups were becoming increasingly active in the State party. He would like more information on the problem, especially in the

area of sport and, in particular, football. Were legal measures adopted in Portugal also applied to the Azores?

28. **Mr. Amir** asked whether Portugal thought of itself as a multicultural society and whether programmes on racism were broadcast on television. He would like to know whether Portugal envisaged making a public declaration condemning the policy of expansionism and enslavement to which it had subscribed in the past.

29. **Mr. Saidou** asked whether the Office of the Ombudsman and ACIDI did not duplicate each other's work, and how the Ombudsman's recommendations were acted upon and what legal weight they carried.

The meeting rose at 6 p.m.