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Na defesa do Cidadão: perceber para prover.

THE PORTUGUESE OMBUDSMAN

Contribution to the 91st Session of the Committee on the Elimination of Racial Discrimination

Fifteenth to seventeenth periodic reports of Portugal on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination
(November 2016)

The Portuguese Ombudsman, the national human rights institution accredited with A-status since 1999 by the GANHRI (former ICC), would like to stress the importance to cooperate with the United Nations monitoring bodies in the area of human rights and to share with the Committee on the Elimination of Racial Discrimination the experience of the institution in respect of the themes covered by the International Convention on the Elimination of All Forms of Racial Discrimination.

Developments during the reporting period

The Ombudsman welcomes the adoption of the “Migration Strategic Plan 2015 – 2020” on March 2015, which was subject to public discussion and replaced the previous National Action Plans for the Integration of Migrants, broadening their goal and developing initiatives to prevent and combat racism and racial discrimination. The Plan is composed of 106 measures divided in five priority axes: Immigrant Integration Policies, designed to the integration, training and anti-discrimination of immigrants and ethnic groups in Portuguese society; Policies to promote the



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integration of new national; Coordinating policies of migration flows; Policies strengthening the legality and quality of migration services; and Policies of incentive, monitoring and supporting the return of emigrants national citizens.

In 2014, the High Commission for Immigration and Intercultural Dialogue was converted in to the High Commission for Migration, with strengthened competences. The High Commissioner for Immigration is also the chairperson of the Commission for Equality and Against Racial Discrimination, in charge of monitoring the application of the Law against Racial Discrimination. The Commission for Equality and Against Racial Discrimination is composed of representatives of Parliament, the Government, immigrant associations, anti-racists associations, trade union confederations, employers' associations, human rights associations as well as independent experts appointed by the other members.

The Resolution no. 25/2013 of the Council of Ministers approved the “National Roma Communities Integration Strategy (2013-2020)” that addresses the needs and challenges faced by Roma communities in four key areas - Education, Employment, Healthcare and Housing. It also stresses the need to develop an integrated approach in those four key areas, with priority on partnership work.

It is also worth mentioning the “National Study on Roma Communities”, published on December 2014. This report was developed by the High Commission for Migration through its unit the Observatory of Roma Communities, in cooperation with other institutions, municipalities, universities, associations and NGOs. It was based upon a variety of methodological tools such as interviews, bibliographic analysis, documentary studies, e-mail surveys, online surveys, face-to-face inquiries and SWOT analysis.



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The activity of the Ombudsman

Foremost, a mention to the fact that, in February 2013, the Statute of the Portuguese Ombudsman was amended. Article 4.º § 1, under the heading “Autonomy”, currently establishes that the Ombudsman may act on his own initiative, defending and promoting the citizens’ rights, freedoms and guarantees as well as their legitimate interests, particularly the most vulnerable citizens on account of their age, race or ethnicity, gender or disability. This legislative amendment reflects the Ombudsman's growing concern regarding the issues of discrimination and xenophobia which are considered main axes of action in respect of all fields.

In fact, the Ombudsman is actively involved in developing contacts with migrant associations and NGOs, for instance the Portuguese Association for Victim Support (APAV) in order to raise awareness against discrimination.

The Portuguese Ombudsman carries out initiatives and intervenes on behalf of immigrants and foreigners in Portugal, namely in order to protect and promote their rights and to avoid situations of discrimination, ensuring the full implementation of the constitutional principle of equality and non-discrimination.

In the fulfillment of its promotional mandate, the Ombudsman has been cooperating with the High Commissioner for Migration and with the Commission for Equality and Against Racial Discrimination in respect of awareness raising campaigns. In May 2012, a protocol was signed between the Ombudsman and the High Commissioner for Migration with the purpose of improving assistance to migrants. Such protocol comprises the dissemination of relevant information, support to prospective complainants (and, in a limited number of cases, action on their behalf), supply of documentation and referral to Legal Support Offices.



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Under the protocol agreed between the Ombudsman and the Ministry of Education and Science in order to promote Human Rights in schools, including the right to non-discrimination, several schools have been visited over the last years.

In 2012, both the Deputy Ombudspersons and other staff members participated in a session of the Working Group of Experts on People of African Descent. The working session intended to explain the work and experience of the Ombudsman in regard to the promotion and protection of the rights of persons of African descent in Portugal and it was a unique opportunity to elucidate numerous questions posed by the experts.

In May 2012, the Ombudsman hosted a visit by the Council of Europe Commissioner for Human Rights. The purpose of the working visit was to address the impact of the economic crisis and austerity measures on certain vulnerable groups in society, such as children, the elderly, the disabled and Roma.

In April 2015, the Ombudsman organized the first meeting of the CPLP Network of Ombudsmen and Human Rights Institutions, chaired by the Ombudsman of Timor-Leste, which resulted in (i) expressing deep concern and regret Humanitarian tragedy that has been affecting thousands of people seeking peace and security in their lives to find death and suffering in the waters of the Mediterranean Sea and (ii) firm condemnation of the cruel acts of terrorism and xenophobia perpetrated against civilians And in particular against children, which cause pain and anguish to thousands of citizens of various African Communities.

In March 2016, the Ombudsman attended the General Assembly of the GANHRI and its annual conference on the theme "Current Challenges to Human Rights Protection". This conference discussed the role of National Human Rights Institutions in conflict and post-conflict situations, especially in respect of protecting



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refugees, asylum seekers and migrants and adopting a human rights perspective with emphasis on combating intolerance, racism and xenophobia.

In October 2016, several staff members of the Ombudsman institution participated in the workshop “Intolerance and Discrimination - Fair and Safe Cities for All”, where they shared their experience with NGOs representatives in respect of preventing, raising awareness and combating all forms of discrimination and intolerance on the basis of ethnicity, religion, disability, sexual orientation, or any other factor.

In its capacity of National Preventive Mechanism, the Ombudsman is currently carrying out investigations to temporary installation centers of the international airports, namely the Lisbon, Oporto and Faro airports. Such investigations of the living conditions of foreigners include one-to-one interviews that give the detainees an opportunity to express if they are being treated with dignity and if at some point they perceived themselves as victims of discrimination on account of their race, ethnicity or nationality.

A special word to the cooperation of the Ombudsman with the “Orquestra Geração” (the Generation Orchestra), a musical and a social project whose aim is to provide children from unfavorable conditions and different ethnicities with an extensive and comprehensive educational program designed to help their social integration. The “Orquestra Geração” held a concert included in the celebrations of the Portuguese Ombudsman institution 40th anniversary, in 2015.

Complaints

It is fair to acknowledge that the number of complaints on the grounds of race or ethnic discrimination is low.



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This could be attributed to the circumstance that some ethnic communities, such as the Roma community, do not trust the intervention of State organs when facing discrimination issues. The Ombudsman is aware of this problematic and acknowledges it as an important challenge to be overcome.

Recently, a complaint was addressed to the Ombudsman on the alleged discrimination of Roma students in a public school, at the level of basic education. Further to investigations carried out, the Ombudsman concluded that there was not a discriminatory conduct. However, he recommended the school principal to pave the way for proper communication between the school and the student's families, including through a cultural mediator.

Since 2012 to the present date, the Ombudsman is actively monitoring the eviction and forced demolition programme of two slums by the Municipal Council of Amadora. Special attention is being paid to situations involving senior citizens, persons living with disabilities or suffering from serious illness and ethnic minorities. The Ombudsman suggested that the demolitions and evictions should be suspended until the municipality, the State and eventually other social institutions are able to rehouse all persons that do not have alternative housing.

The Ombudsman also handled the case of three Roma children living with their mother in a tent under a bridge, with no basic conditions of hygiene, safety and comfort. The case was flagged to the Commission for Protection of Children and Young People that interacted with the Municipal Council to provide for adequate housing. As result of the Ombudsman intervention, the family was granted proper housing



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Some concerns of the Ombudsman

The Ombudsman is deeply concerned with rise of racist and xenophobic behavior, frequently expressed through violence and intolerance acts perpetrated by organized groups, as a result of the refugee's crisis in Europe. It is paramount to join efforts with other public entities and with civil society in order to overcome the challenges posed by this threat to the human rights of the most vulnerable.

In a global society characterized by the dramatic production, distribution and use of information, the internet has a growing impact in an increasingly interconnected world. At the same time, the internet is a territory for new forms of violation of human rights such as the so-called "cyber racism". The level of anonymity offered by the internet favors the dissemination of extreme views and comments, inciting to racism, religious intolerance, xenophobia, hate speech, among others. The Ombudsman understands that the best way to address this issue is by raising awareness to the theme, especially amongst children and young people.

Another concern of the Ombudsman, in line with the New Urban Agenda, is that the fast growth of urban centers is duly oriented towards the development of sustainable and inclusive cities. The migration flows to urban centers may originate the creation of ghettos of persons that share a common ethnicity or religious belief. This poses an obstacle to the full integration of the migrants and may originate areas of social tension, potentiating violence, discrimination and requiring balanced and out-of-the-box approaches.