



# **Economic and Social Council**

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## **Committee on Economic, Social and Cultural Rights**

### **Implementation of the International Covenant on Economic, Social and Cultural Rights**

**Fourth periodic reports submitted by States parties under  
articles 16 and 17 of the Covenant**

**Portugal\***

[28 January 2011]

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\* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not edited.

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\*\* Annexes can be consulted in the files of the Secretariat.

## I. General provisions of the Covenant

### A. Article 1 – Right to self-determination

1. Portugal defends the right to self-determination for every country in the context of the United Nations and rules its conduct in this regard according to the International Law.

#### Cooperation in the field of the Police

2. Portugal promotes on a systematic basis technical cooperation in the field of definition and implementation of the strategic reform plans aimed at the improvement of the administration and training of police forces. A project of institutional development Support to the MINT, in Mozambique, is also in place through a delegation agreement between the European Commission and the IPAD in order to reform of the security sector. The project aims at the improvement of services to the citizens in the domains of prevention and the fight against criminality.

#### Cooperation in the field of Justice

3. In this sector, Portugal develops numerous projects to enable and institutionally reinforce the PALOP Countries and East Timor and to support the modernization of the legal and judiciary sectors, namely through the reform of the Codes of Law, the training of Magistrates, and of registry and criminal investigation personnel.
4. In the Guinea Bissau Republic (RGB), the program for the area of Justice has contributed, since 2007-2008 to the improvement of the legal-judiciary system, namely to the attainment of priority goals of the *Operational Plan against Drug Trafficking of the UNOCD and the Government of Guinea*.
5. In the RGB, in Mozambique and in East Timor, the academic training of lawyers and researchers is being conducted to reinforce the Rule of Law and establish a national training group for tertiary education in the fields of Law and Public Administration, through a partnership with the local universities.
6. IPAD is also financing the consolidation of the legal data base Legis-PALOP, in order to promote the development of the reform of the Justices sectors, the exchange of information between all these countries and the dissemination of information to the general public.
7. Portugal also finances, through the UNDP, a Trust Fund for Democratic Governance.

### B. Article 2 – Equality and non-discrimination

#### Questions 9 and 10 of the Committee's reporting guidelines (E/C.12/2008/2), annex

8. According to article 15 of the CPR, foreigner, stateless persons and European citizens who find themselves or who reside in Portugal shall enjoy the same rights and be subject to the same duties as the Portuguese citizens. This principle of national treatment is also enshrined in the Portuguese Civil Code, in its article 14 that also indicates a few exceptions.
9. A structuring principle of the Portuguese legal system is the principle of equality enshrined in article 13 according to which "every citizen shall possess the same social dignity and shall be equal before the law" and "no one shall be privileged, favored,

prejudiced, deprived of any right or exempted from any duty on the basis of ancestry, sex, race, language, place of origin, religion, political or ideological beliefs, education, economic situation, social circumstances or sexual orientation.”

10. Equality and non-discrimination are also enshrined in the Portuguese Labor Code (hereinafter referred to as “Code” or “LC”) in articles 23 to 31 and 73 to 78 approved by law n°. 7/2009, of data February, that transposed the European Directives on non-discrimination<sup>1</sup>.

11. Law 37/2006, dated 9 of August, regulates the exercise of the right to freedom of circulation and residence of the EU citizens and the members of their families inside the national Territory and contains rules on the protection of the right to work, to education, to health, to social security and to the protection of motherhood.

12. Law 23/2007, of 4 July, regulates the entry, permanence, exit and removal of foreigners. On the right to work (arts. 6 and 7 of the Covenant) it regulates the concession of residency visa supplying a dependent professional activity (art. 59), for taking up a subordinated professional activity or immigrant entrepreneurs (art. 60). It also regulates the issuance of residence permits with and without visa exemption (arts. 88, 89, 122.1, (n) and (p) and 123), of permanent residence permits (art. 80), of residence permit to holders of long-term resident status in other EU Member States (art. 116, par. 1, (a) and (b) and of long-term resident status (art. 125).

#### **Measures to eliminate discrimination**

13. In Portugal, the “Provedor de Justiça” is both the Ombudsman and the National Human Rights Institution with A-status accreditation since 1999. The Ombudsman intervenes to ensure that competent entities take action and adopt the proceedings that are legal and fair and that which best guarantee citizen’s rights and fundamental freedoms.

14. In what concerns the defence of the rights of children and elderly, there are specific channels to reach the Ombudsman: the Children’s hotline (formerly known as Green Line “Messages from Children”) and the Elderly Citizen’s hotline, which are two free telephone lines with personalized response created respectively in 1993 and in 1999 to deal with complaints regarding the violations of the rights of these two groups. Since early 2011 a Citizens with Disabilities Hotline has been operating experimentally.

15. The Ombudsman has issued a number of recommendations and suggestions concerning the implementation and guarantee of the rights of different groups, addressed to the organs competent to alter the legislation or to correct unjust acts committed by public powers. Below are a few examples concerning Economic, Social and Cultural rights with regard to:

- Foreign citizens - right to education concerning the access to basic education benefits for children of immigrants working and residing in Portugal; social action in education benefits to foreign students at higher education level;
- Elderly - inspection of homes for the elderly in the Autonomous Regions of Azores and Madeira;
- Children and young persons with disabilities - payment of special education benefit for children and young persons with disabilities;

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<sup>1</sup> Directive 2000/43/EC of 29 June 2000; Directive 2000/78/EC of 27 November 2000; and Directive 2006/54/EC of 5 of July (recast).

- Women: among other aspects, access to maternity benefit for administrative agents with a temporary contract and female workers in the private sector; the determination of amount of maternity allowance in the case of option for the extended 150 days leave);
- Detainees: three general inspections to prisons were carried out with various recommendations addressed to the competent public entities regarding in particular the specificities of certain groups, such as pregnant detainees, detainees with children and foreign detainees; the detainees' right to health; drug-dependence and infectious diseases, including follow-up after the release and the continuity of care). In a number of cases the recommendations of the Ombudsman were taken in due consideration in later legislation.

16. During this period, several special plans have been presented, namely the First National Action Plan for the Integration of Persons with Disabilities or Impairments 2006-2009 (PAIPD) (Resolution of the Council of Minister no 120/2006, of 21 September), the National Action Plan for Inclusion 2008-2010 (PNAI) (Resolution of the Council of Ministers no 136/2008, of 9 September)<sup>2</sup>, the Plan for Immigrant Integration (Resolution of the Council of Ministers no 63-A/2007, of 3 May) and the 3rd National Plan for Equality – Citizenship and Gender 2007-2010 (resolution of the Council of Ministers no 77/2007, of 4 June).

17. The National Action Plan for Inclusion (2008-2010) envisages specific measures aimed at the most vulnerable groups, such as immigrants, elderly, ethnic minorities, and homeless. The Plan is the preferred instrument for cross-cutting planning, strategic and operational coordination of policies and measures designed to address the problems associated with these groups.

### **Immigrants**

18. In recent decades Portugal had an accentuated growth in the number of foreigner residing in the country. In 1995 there were 168,316 foreigner legal residents or authorized to stay; in 1999 there were 190,896; in 2007 there were 435,736 (240,096 men and 195,640 women) corresponding to 401,612 with residence permits, 5,741 with permanence permit extensions and 28,383 with long term visa extensions, in 2008 there were 436.020 with residence permits.<sup>3</sup>

19. A high percentage of immigrants has low levels of schooling (lower secondary education), especially those coming from South America and Africa. Those from Europe have higher levels of qualifications (upper secondary or higher education)<sup>4</sup>. Portugal made progress in the immigrants' participation in labour market compared to some EU countries. In 2007, 77.9 per cent of the foreign population was active, the employment rate was 68.5 per cent, the unemployment rate was 12 per cent and the inactivity rate was 22.1 per cent.<sup>5</sup> However, compared with Portuguese citizens, immigrants participate in the unqualified segment of the labour market, which reveals inequalities while accessing more qualified jobs<sup>6</sup>. Unemployment also affects nationals and non-nationals in a different manner. The absence of family networks, the difficulties of finding solutions, in accessing housing and

<sup>2</sup> Followed by the National Action Plan for Inclusion 2006-2008 (PNAI) (Resolution of the Council of Ministers no 166/2006, of 15 December).

<sup>3</sup> SEF, Statistics of the immigrant population in Portugal.

<sup>4</sup> INE, Census.

<sup>5</sup> INE, Employment Survey

<sup>6</sup> OCDE, SOPEMI, *International Migrations Outlook*, 2006.

language difficulties are other factors tend to place immigrants in situations of vulnerability and social exclusion.

20. The dialogue with the origin countries has been a concern of the migration public policies. The intercultural model advocated by the Portuguese integration policy became particularly operational with the definition and implementation of National Plans for the Integration of Immigrants. Portugal developed, for the first time, an action plan for immigrant integration, based on a holistic approach. The first Plan took place from 2007 to 2009<sup>7</sup> and 13 Ministries participated in the implementation of 122 measures distributed through 20 thematic areas. The I Plan's final evaluation<sup>8</sup> showed the implementation of around 81 per cent of its measures.

21. ACIDI (High Commission for Integration and Intercultural Dialogue) is a public institute with the mission to collaborate in the conception, implementation and evaluation of public policies, both cross-cutting and sector-specific, relevant for the integration of immigrants and ethnic minorities, as well as promoting dialogue between various cultures, ethnicities and religions<sup>9</sup>.

22. In 2004, the Portuguese Government, through ACIDI, opened two One-Stop-Shops, officially named National Immigrant Support Centres (CNAI), in Lisbon and O'Porto. These centres bring together, under the same roof, a number of governmental services and specific support offices related to immigration. The centres involve six branches of five Ministries (Health, Education, Work and Social Security, Justice and Internal Affairs), and provide specific support, on legal advice, family reunion and labour market integration (through a specific support cabinet), among other issues.

23. Since its creation, in 2004, until the end of 2009, Lisbon and O'Porto's CNAI attended a total of over 1.968.404 cases. In April 2009, a CNAI's branch was opened in Faro, the second district with more foreign residents, attending, until the end of 2009, 11.323 cases. Faro's Centre contributed, thus to the total figure of nearly 2.000.000 attendances since the first centres opening (1.979.727 cases by the end of 2009). In 2010 CNAI has attended 15 per cent more cases than 2009, since the number of attendances went from 291.613 (2009) to 335.128 in 2010.

24. Around 110 socio-cultural mediators work at CNAI, employed by non-Governmental Immigrant Associations through protocols celebrated with ACIDI. The participation of civil society institutions, as partners in the management of this project, can bring important outcomes, as the development of immigrant integration policies becomes a shared responsibility.

25. The Portuguese CNAI were the role model for the Project "One-Stop Shop: A New Answer for Immigrant Integration" (JLS/2006/INTI/148), coordinated by ACIDI<sup>10</sup> and

<sup>7</sup> Created by Council of Ministers Resolution nr 63-A/2007, dated 3 May, reflects the aims and pledges of the Portuguese State to provide an integrated, comprehensive and all embracing response so as to receive and integrate immigrants who turn to Portugal as their host country.

<sup>8</sup> The II Plan for the Integration of Immigrants (Resolution of the Council of Ministers 74/2010, 12 August), to be implemented between 2010 and 2023, followed the previous concerns but is innovative since migration flows, and needs, have changed since the I PII. The II Plan involves 14 Ministries in the implementation of 90 measures, distributed through 17 thematic sections.

<sup>9</sup> ACIDI's activities are based on the seven key principles of Equality, Dialogue, Citizenship, Hospitality, Interculturalism, Proximity and Initiative. Its mission, foreseen in the Decree-law nr. 167/2007, dated 3 May, includes, among other relevant competences, to contribute to the improvement of migrants' living and working conditions in Portugal, in order to better promote their full integration with dignity, with the same opportunities of national citizens.

<sup>10</sup> Further information on this Project <http://www.oss.inti.acidi.gov.pt/index.php?lang=en>.

financed by the European Union, in order to disseminate the project among other European Countries.

26. Along with CNAI, ACIDI has provided a network of Local Immigrant Support Centres (CLAII), located all over the country (87 in entire country).

27. In order to overcome language barriers posed by the inexistent or insufficient knowledge of the Portuguese language by immigrants, ACIDI created the Telephone helpline “SOS Imigrante” (SOS Immigrant), with attendance in 9 languages (Portuguese, Creole, English, French, Spanish, Russian, Ukrainian, Byelorussian and Romanian), and the Telephonic Translation Service (STT) for another 50 languages/dialects. Until 2010, this hot line had received a total of 329,545 calls.

28. The media play also an important role on migration related subjects. ACIDI has created a TV Programme, named “US” (NÓS), a weekly magazine of one hour.

29. Within ACIDI, the Immigration Observatory seeks to deepen knowledge on the reality of immigration in Portugal, in order to be able to define, implement and evaluate effective policies for the integration of immigrants.<sup>11</sup>

30. In order to guarantee immigrants’ access to Portuguese courses, the governmental programme “Portuguese for Everyone” (Português para Todos – PPT) was created in 2008, following another programme “Portugal Welcomes” (Portugal Acolhe), created in 2001. The programme is conducted by the ACIDI and has a budget for 2009/2010 of Euros 2.893,456,20. The numbers are: Trainees 2008/2009 - 3619 migrants; Trainees 2009/2010 - 5330 migrants (see annex:

- Table 1– Overall budget Portuguese language courses for foreigners
- Table 2– Financial implementation - Costs paid
- Table 3– Number of trainees by country
- Table 4– Number of trainees by continent).

### **Ethnic Minorities (Roma citizens)**

31. The Roma population in Portugal has approximately between 40 and 50 thousand individuals, of which about 38 per cent are younger than 15 years of age and about 16 per cent live in precarious housing conditions. Many of these situations resulted from inadequate local strategies but also from the lack of socio-cultural adaptability of resident communities, the majority population and ethnic Roma.

32. Roma communities have access to an important set of general programmes and measures aimed at individuals and groups living in situations of poverty and exclusion. These include the Integration Social Income, housing programmes, measures for social protection and school social action. In the same way, Roma communities also benefit from some of the measures outlined in the Plan to Integrate Immigrants. But the importance of additional measures, especially aimed at their communities has been recognized. The third priority of the National Action Plan for Inclusion 2008-2010 contemplates a mechanism to monitor the degree of integration of these communities, with a special emphasis on education, health, employment and housing.

33. An Office to Support Roma Communities was created by the ACIDI in 2007. The Office set up a Working Group with 6 elements belonging to Roma communities,

<sup>11</sup> Further information on the Immigration Observatory available at <http://www.oi.acidi.gov.pt/modules.php?name=Content&pa=showpage&pid=21&newlang=english>.

experienced in mediation and working in joint projects, as well as a website dedicated to Roma communities ([www.ciga-nos.pt](http://www.ciga-nos.pt)) (translated as follow us “Roma!”), and has published several studies and publications.

34. With the support of the Institute of Social Security, a Pilot Project for Municipal Mediators was also undertaken to provide intercultural training in the fields of Mediation, Public Institutions Functioning and Communication, for fifteen Roma municipal mediators.

35. Programa Escolhas (Choices Programme)<sup>12</sup> is a mainstream governmental programme, created in 2001 and managed and coordinated by the High Commission with the general objective of promoting equality of opportunities and the social inclusion of the beneficiaries. These projects are managed by local partnerships involving local administration, non-profit organizations (IPSS) and the commissions for the protection of children and young people.

### Persons with disabilities

36. Bearing in mind the principle of non-discrimination, measures have been focused on the following key aspects of intervention: accessibility; education, qualifications and employment; social protection; facilities and services.

37. The National Institute for Rehabilitation (INR) operating within the Ministry of Solidarity and Social Security, is in charge of planning, executing and coordinating national policies aimed to promote the rights of persons with disabilities, in partnership with other public entities and NGO's, namely:

- **Framework law n° 38/2004 of 18 August 2004** that defined the general basis of the legal system for prevention, habitation, rehabilitation and participation of persons with disabilities. The mainstreaming principle was expressly adopted, especially in Article 3;
- **Law n 46/2006 from 28 August**<sup>13</sup> prohibits and punishes discrimination based on disability or health;
- **The Action Plan for the Integration of the Persons with Disabilities or impairments (2006-2009)**<sup>14 15</sup> that defines the measures to be adopted and implemented by the government in different areas of general policy;
- **Decree-Law 163/2006 of 8 August** defines conditions for accessibility in construction of public spaces, public facilities and buildings, and houses, and surrounding areas.
- (INR) Council of Ministers resolution n° 97/2010 of 14 December – National Strategy for Disability 2011-2013, is intended to consolidate the previous Action Plan for the Integration of Persons with Disabilities or Impairments, and defines the measures that will be adopted and implemented by the government in the different areas of general policy promoting a wide partnership with civil society as

<sup>12</sup> The work done by Programme Choices has been internationally acknowledged, receiving recognition as a best practice in several occasions: in 2003, it received the European Union Award on Criminality Prevention; in 2007, it was referred as a good practice in the European Union “Handbook for Integration”; it was equally considered a good practice in the first “International Report on Criminality Prevention and Community Safety”, produced by the Centre for the Prevention of Crime (ICPC), with headquarters in Canada.

<sup>13</sup> <http://www.dre.pt/pdf1sdip/2006/08/16500/62106213.PDF>

<sup>14</sup> <http://www.inr.pt/content/1/26/paipdi>

<sup>15</sup> Resolution of the Council of Minister no 120/2006, of 21 September



well as persons with disabilities, and establishing a set of measures distributed by five strategic axes: Disability and multi-discrimination; Justice and exercise of rights; Autonomy and quality of life; Accessibility and design for all; Administrative modernization and information systems

38. Based on the 2001 National Population Census<sup>16</sup>, 6.1 per cent of the total population has at least one type of self-reported disability.

39. The 2007 National Plan for the Promotion of Accessibility<sup>17</sup> incorporates measures of physical accessibility in the built environment, transport and information and communication technologies (ICT) and supporting technologies (TA). A few examples:

- A Railway Transport Cooperation Protocol has been agreed for the phased elimination of obstacles in railway transport;
- The 'Two for One' Agreement aims at a Tariff Reduction on long distance trains;
- 30 per cent of public system buses with wheelchair ramps;
- "Accessible Beach – Beach for Everyone" aims to make Portuguese beaches more accessible to persons with disabilities.

40. Social protection<sup>18</sup> for persons with disabilities takes the form of cash benefits, especially regarding compensation for family charges, protection of disability and dependency and maternity. Maternity Benefits provided under the maternity protection scheme are intended to offset the loss of income of working parents caring for descendants with disabilities. Dependency benefits include an attendance allowance and a dependency supplement.

41. By means of cooperation protocols, Social Security provides financial and technical support to non-profit institutions, which provide services for people with disabilities, such as residential homes, occupational activity centres, and early intervention centres aimed at children from 0 to 6 years old. Funding is directly from the state to the host establishment, following the conclusion of an individual agreement (cooperation protocols). Beneficiaries pay an amount towards cost calculated on the basis of their family income. However, it is important to stress that a considerable number of persons with disabilities are cared for by their families.

42. The main means of subsistence for persons with disabilities over 15 years old is their pension/ retirement (55.2 per cent), reflecting an inverse situation to the total population whose principal means of subsistence is work (52.6 per cent).

43. The Employment and Vocational Training Institute (IEFP)<sup>19</sup> is the national body with responsibility to implement the vocational rehabilitation policy and labour market integration of disabled people, preferential employment and quotas

44. The Decree Law 29/2001, of 3 February<sup>20</sup> (Employment Quota System) establish a 5 per cent quota for people with disability with a degree of incapacity greater than or equal to 60 per cent.

<sup>16</sup> <http://www.inr.pt/content/1/117/informacao-estatistica>.

<sup>17</sup> <http://www.inr.pt/content/1/3/pnpa>.

<sup>18</sup> Information about pensions and benefits available at [www.inr.pt](http://www.inr.pt), [www.seg-social.pt](http://www.seg-social.pt) and [www.gep.msss.gov.pt](http://www.gep.msss.gov.pt)

<sup>19</sup> <http://www.iefp.pt/Paginas/Home.aspx>

<sup>20</sup> <http://www.inr.pt/content/1/73/sistema-quotas-emprego>

45. According to the Labour Code, laws or collective agreements may introduce more favourable provisions for the protection or integration of the worker with disability.

46. In the field of social care (Social Action Sector) a range of specific social services and facilities funded by central government are available. The majority (institutional and community-based) are delivered by non-profit organizations through State financing. Assistive devices are also financed by State, mostly by the Social Sector and some by the Health and Education sectors (e.g. in school).

47. Provision includes day care centres for the elderly; sheltered workshops for severely disabled persons; centres for social and occupational measures for persons with a mild mental illness; nursing homes for temporary stay of disabled children; provision of technical aids; early intervention (integrated support combining education, health and social action for children with disabilities up to 6 years old); allowance for assistance by a third party.

48. The National Network of Long Term Care, which includes health and social security services, provides integrated care (convalescence, rehabilitative middle and long-term care), as well as palliative care for elderly and people living in situations of dependency.

49. Regarding financial resources for support to people with disabilities, the available data for 2008 indicates that €354 million were spent in the following areas: Vocational Training and Employment (€65 million); Technical Aids (€125 million); Cooperation Protocols with Social Security Institute (€110 million); Social Subsidies (€97 million); PARES+POPH (€60 million); Support to Sports Activities (€1.3 million); Subsidies and Supports to transportation (€1.5 million).

### **Article 3 – Equal right of men and women to the enjoyment of all economic, social and cultural rights**

#### **Questions 12 and 13 of the Committee’s reporting guidelines**

50. The State is responsible for promoting equal opportunities at work, the reconciliation of professional activity with family life, equality in the exercise of civic and political rights and non-discrimination on the basis of sex in access to political positions.

51. There are two national mechanisms dedicated to the promotion of equality between women and men: the Commission for Citizenship and Gender Equality (CIG) and the Commission for Equality in Labour and Employment (CITE).

#### **Penalizing discrimination**

52. Breach of the provisions regarding equality is generally punished as a very serious administrative offence<sup>21</sup> and the convictions may be published<sup>22</sup>. Currently, the Authority for Working Conditions - AWC<sup>23</sup> continues to prevent, monitor and punish gender discrimination.

53. According to Law No. 10/2001 of May 21st, the Government must submit to parliament by the end of each legislative session, an annual report on the progress of equal opportunities between women and men at work, employment and vocational training. The

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<sup>21</sup> The fines imposed can vary from 20 to 600 units of account (one unit of account = € 89, between 2004 and 2006, and € 96 between 2007 and 2009).

<sup>22</sup> Article 642 of the Labour Code.

<sup>23</sup> Former General Inspectorate of Labour

Government presented the 2005, 2006-2008, 2009 and 2010 reports. These reports showed a strong growth in female employment alongside the persistence of a higher female unemployment rate compared to men; there is still a gender imbalance in sectors and occupations; the gender pay gap persists and is particularly felt at high skills levels. However, women's access to the educational and training system is increasing steadily.

54. The Commission for Equality in Labour and Employment (CITE) receives complaints and issue legal opinions concerning equality and non-discrimination in work, employment and vocational training.

55. In November 2010, the new organic law of the Commission for Equality in Labour and Employment was published (Decree-Law n° 124/2010 of 17 November) defining its equilateral composition and reinforcing its skills regarding assistance to, and representation of, victims of discrimination based on sex, in work and employment, in administrative and judicial proceedings (see annex, table 5 - Mandatory prior consultation of the Commission for Equality in Work and Employment).

### Specific National Plans

56. The equal opportunities policies for all and policies of equality of opportunities between women and men are transversal to all measures, in particular with regard to a life cycle work approach. However, there are some specific sectorial programmes and plans which are more directly related to the national policies aimed at gender equality, such as, the three National Plans for Equality - Citizenship and Gender Equality<sup>24</sup>, the third National Plan against Domestic Violence<sup>25</sup>, and the third National Plan against Trafficking in Human Beings<sup>26</sup>.

57. Budget for the promotion of gender equality has been considerably reinforced for the period ranging from 2007 to 2013. A specific funding line was created with a total of 83 million euros distributed among 7 different areas for that period. CIG is in charge of managing several of these lines of technical and financial support and several projects are being implemented in support to the initiatives of NGOs and other civil society organizations working in the field of gender equality including; prevention of gender based violence; support to the conception, development and evaluation of databases, diagnosis and good practices guides; campaigns aimed at raising awareness and promoting gender equality as well as combating gender based violence; integrated intervention to combat domestic violence and trafficking in human beings; support to the promotion of Plans for gender equality in Central and Local Public Administration and in enterprises and support to women's entrepreneurship.

58. Relevant legislation on gender equality includes:

- **Establishment of quotas** for the participation of women and men in the lists of candidates for election (2006) - minimum participation of 33 per cent for each sex;

<sup>24</sup> Third National Plan for Equality - Citizenship and Gender (2007-2010) approved by Council of Ministers Resolution 82/2007 of 22 June

<sup>25</sup> III National Plan against Domestic Violence (2007-2010), approved by Resolution n.º 83/2007, of 22 June, of the Council of Ministers.

<sup>26</sup> I National Plan against Trafficking of Human Beings (2007-2010), approved by Resolution n.º 81/2007, of 22 June, of the Council of Ministers and II National Plan against Trafficking of Human Beings (2011-2013), approved by Resolution n.º 94/2010, of 29 November of the Council of Ministers.

- **Gender impact assessment and use non-discriminatory language** (2006) in all draft law;
- **Principles of Good Governance of Public Sector Companies** that determines that all companies held by the State have to adopt Equality Plans (2007);
- **Gender equality and nondiscrimination in the workplace** (LC 2009), establishing the general framework for equal treatment in employment and professional activity and introduces the concept of parenthood and parental leave up to six months if it is shared by the father and mother;
- **Social protection for maternity and paternity** (Decree-law no 91/2009), promoting reconciliation between work and family life by strengthening the rights of the father and encouraging the sharing of the parental leaves;

59. The Council of Ministers Resolution n. 161/2008 of 22 October approved the adoption of measures for mainstreaming gender perspective into Public Administration (Central and Local levels) translated namely in the adoption of Plans for Equality, and in the progressive celebration of Protocols with municipalities. CIG has developed Protocols with 46 municipalities (out of 308 municipalities) for the adoption of Local Plans for Equality and the appointment of Local Equality Advisers and teams. A Council of Ministers resolution nº 39/2010 was adopted on 25 May 2010 defining the status of Local Advisers and giving them political support in order to be able to fully accomplish their functions.

60. Specific measures for gender equality are included in the information on the implementation of the substantive of the rights of the Covenant.

### **Women and entrepreneurship**

61. According to the 2010 edition of the Observatory of Enterprise Creation<sup>27</sup>, in Portugal, about a third of entrepreneurs are women. The large majority of them, almost 90 per cent, intend to be actually involved with their business, which is very relevant. From these, three-quarters hold at least half of the partnership, while 30 per cent have a majority participation in their companies. Furthermore, about a quarter own 100 per cent of the partnership, being the only entrepreneur of the company. It may be noted that among the younger entrepreneurs (26-35 years old), the proportion of women tend to be a little larger, around 40 per cent, reflecting a more balanced gender representation among the new generations.

62. Former experience in conducting a business is more common among male entrepreneurs (more than half of them have already had an entrepreneurial initiative in the course of their working life). However, around a third of women entrepreneurs have also had a similar experience in the past, and business management is not a novelty to them.

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<sup>27</sup> The Observatory of Enterprise Creation in Portugal is a project conducted by IAPMEI (Portuguese Public Agency for SME Support and Innovation).

## Article 6 – The right to work

### Questions 15 and 16 of the Committee's reporting guidelines<sup>28</sup>

63. The global employment rate (15-64 years) which stood at 68.2 per cent in 2008 (+0.4 p.p. than in 2007) decreased to around 66,3 per cent in 2009 (-1,9 p.p. than in 2008) and 65.6 per cent in 2010 (-0,7 p.p. than 2009), though this decrease was not observed in all regions, given that it increased in the Centre region (+0.2p.p.), in the Alentejo region (+0.2p.p.). In 2010, the Centre region (70.1 per cent), Algarve region (65.9 per cent) and Madeira region (66.3 per cent) showed higher rates than the national rate. The lowest rate was observed in the North Region (63.2 per cent) (see, annex.).

- Table 6– Evolution of the employment rate, by region
- 63. The global unemployment rate was 9,5 per cent in 2009 (8,9 per cent for men and 10,2 per cent for women) and 10,8 per cent in 2010 (9,8 per cent for men and 11,9 per cent for women).
- Table 7– Evolution of the unemployment rate, by region
- 64. From 2004 till 2010 the female activity rate, for individuals aged between 15 and 64 years, rose and the male activity rate decreased; but the difference between them is still significant – in 2010, women's activity rate was 69.9 per cent against 78.2 per cent for men.
- Table 8– Female and male activity rate by age groups and sex, 2007-2010
- 65. Women's employment rate (women aged between 15-64 years) decreased slightly between 2004 and 2010 - 61,7 per cent to 61 per cent, and men's employment rate also (74.1 per cent, in 2004, to 70.1 per cent in 2010).
- Table 9– Female and male employment rate by age groups and sex, 2007-2010 (1<sup>st</sup> semester)
- 66. In 2010 the rate of women employed with higher education was 78.1 per cent and the percentage of men was 77.7 per cent.
- Table 10– Employed population according to qualification and sex (%), 2007-2010 (1<sup>st</sup> semester)).

64. Measures to reduce high unemployment through Public Employment Services (PES) are set out below:

- **INSERJOVEM and REAGE** initiatives that offer a new opportunity to all young people/adults<sup>29</sup> before they are unemployed for 6 or 12 months;
- **Program for Young Unemployed between 15 and 22 years** to promote the access to training and certification and the increase of the level of professional qualification within the framework of the *New Opportunities Initiative*. Between 2005 and 2010, around 255 thousand individuals were supported by this programme corresponding to an investment of 638 M€;

<sup>28</sup> Due to changes in the Labour Code (Law 7/2009, of 12 February), the treatment and assessment of data has changed since 2009. Therefore, some data have different parameters of comparison. Also it is to note that, due to the latest legislative changes in the Labour Code written warnings tend to be applied on less serious infractions cases. This situation can explain the decrease of data in 2010.

<sup>29</sup> Under the form of employment, learning, complementary training or other measures stimulating employability.

- **Intervention Program for Young Unemployed between 23 and 30 years** without complete basic and secondary education and professional qualification. This six-year programme (2005/2010) covered approximately 249 thousand young people with an investment of 319 M€;
- **Intervention Program for Unemployed between 31 and 54 years** - the implementation of this program covered 570 thousand people between 2005 and 2010 and funding amounted to 559 M€;
- **Intervention Program for Qualified Unemployed** with high education. Between 2005 and 2010, around 156 thousand qualified people were covered by this programme and investment amounted to 417 M€;
- The following programmes were developed to support the integration of young graduates in small and medium enterprises: (a) Vocational Training Programs; (b) INOV-JOVEM program; (c) INOV Contacto program; (d) Training Program for Public Administration; (f) Training Program for Local Public Administration.

65. Considering certain population groups, the following intervention programs were also developed:

- **The Intervention Program for an Inclusive Labor Market** to support the creation of employment, qualification, technical and financial support for groups with special difficulties in integrating into the labor market and at risk of social exclusion. This Program combines other responses and complementary incentives in health, social security in order to combat inequalities and promote greater social cohesion, such as the Social Integration Income (SSI);
- **The Programme for Vocational Training and Employment for People with Disabilities** covers a wide range of responses facilitating access to employment;
- **Integration of immigrants in the labor market and in society** based on the Plan for Immigrant Integration 2007-2009<sup>30</sup> providing integrated support services in Lisbon Oporto and Faro, including the Entrepreneurship Support Centre (NAE) to support immigrant entrepreneurship.

(see annex, table 11– Intervention Programs for an inclusive labor market for all).

### Undeclared work

66. The Authority for Working Conditions (AWC) conducted 62.680 inspections on undeclared or irregular work within the Inspection Action Plan 2008-2010. 5975 prosecution reports were filed corresponding to the imposition of minimum fines amounting to € 8.992.198. Written warnings were issued on remediable irregularities where there was no irreparable prejudice for employees, work management or for social security. In 2008, 16.596 written warnings were produced; in 2010 the number rose to 20.098 (see annex, table 12– Undeclared or Irregular Work and table 13– Inspection on Irregular Work).

### Totally or partially undeclared work

67. AWC and Social Security Services were given powers to identify situations of undeclared work, partially undeclared work, and under-declaration of remuneration and concealment of employment contracts. All sectors of activities were considered, 14.086

<sup>30</sup> Council of Ministers Resolution no 63-A/2007, of 3 May.

inspection visits were conducted to identify totally or partially undeclared work (see annex, table 14– Totally of Partially Undeclared Work).

68. Between 2008-2010, prosecution reports were filed by AWC, corresponding to the imposition of minimum fines amounting to € 3.145.095 in 2008, that rose to € 7.668.769 in 2010

#### **Irregular use of fixed-term contracts**

69. In 2008, AWC filed prosecution reports corresponding to the imposition of fines amounting to € 376.458. 724 written warnings were issued (see annex, table 15– Irregular Use of Fixed-Term Contracts)

#### **Temporary work, assigning and posting workers**

70. In 2008, 1119 inspection visits were conducted to activities of temporary work, assigning and posting workers, 51 prosecution reports were filed corresponding to the imposition of minimum fines amounting to € 130.468 (see annex, table 16– Temporary Work, Assigning and Posting Workers).

#### **Prevention and monitoring of discrimination in employment and working conditions of more vulnerable working groups**

71. From 2008 to 2010, AWC conducted 13.016 inspections to develop prevention and control strategies regarding policies and practices of equality and non-discrimination in the access to employment and working conditions for the more vulnerable working groups – women, migrant workers, minors and disabled persons (see annex: table 17– Prevention and Monitoring of Discrimination in Employment and Working Conditions of More Vulnerable Working Groups, and table 18– Integration of Migrant Workers).

72. Tables 21 and 22 show a set of representative indicators on the actions developed by labor inspectors and deemed significant to analyzing this phenomenon in Portugal (see annex, table 19– Employment and Working Conditions of Minors, and table 20- Evolution of number of minors 2002-2010).

#### **Questions 17 and 18 of the Committee's reporting guidelines**

73. Law no 7/2009, of 12 February, regulates equality and non-discrimination based on multiple factors.

74. Article 24 of the Labor Code provides the right to equal access to employment and an occupation by adopting the positive and negative aspects of the principle of equality defined in article 13 of the CPR. Under article 25(2) of the LC, behavior based on a factor which is in principle discriminatory does not constitute discrimination. This therefore leads to an inversion of the burden of the proof, since the employer has the duty to prove that the differences are not based on any of the factors referred to in article 24(1). 84. Article 25 (6) of the LC extends application of inversion of the burden of the proof to access to employment, vocational training and promotion.

75. In the case of the employer taking a disciplinary sanction against the worker for exercising his or her rights, or the intention to invoke them and such measure is considered to be abusive, the employer has to pay compensation to the employee. (art. 331 of the LC)

76. Workers who have a disability or suffer of a chronic disease shall enjoy all the same rights and be subject to all the same duties of the other workers, in what regards to access to employment, to training, job promotion and working conditions, except the extent that their disability renders them unable to exercise them. The same Article states that the Portuguese State shall make available incentives to facilitate the hiring of persons with disabilities or

chronic diseases. (arts. 84 to 88). The employer shall adopt measures of positive action, appropriate to enable a person with a disability or a chronic disease to have access to, participate in, or advance in employment or to undergo training, stimulated and supported by the State.

77. The New Opportunities Initiative covered two distinct axes: one that structured vocational education and training for young people and the other targeting adults who had not concluded secondary education (see annex:

- Table 21– Students enrolled in vocational courses for youngsters, according to the level of education (2005/06 - 2009/10)
- Table 22– Students enrolled in primary and lower secondary education, in vocational courses for youngsters (2005/06 - 2010/11)
- Table 23 – Students enrolled in upper secondary education, in vocational courses for youngsters (2005/06 - 2010/11)).

78. It was possible to obtain the results indicated in the above 3 tables, reaching or surpassing the targets, due to two main vectors: strong expansion of vocational courses (covering about 87 per cent of young people) and the wide reinforcement of public schools with double certification courses, raising from 62 to 460 the number of public schools that offer vocational education between 2005 and 2010.

## **Article 7 – Wages, rest, safety and health at work**

### **Questions 19-23 of the Committee’s reporting guidelines**

79. According to the CPR, article 59 (2) a), the State shall be charged with setting and updating a national minimum wage which, among other factors shall have particular regard to workers’ needs, increases in the cost of living and the requirements imposed by economic and financial stability. This provision is enshrined in the LC (art. 266).

80. In addition to the guaranteed monthly minimum wage, the majority of collective agreements established higher minimum wages. In the cases of collective agreement wages being inferior to the guaranteed monthly minimum wage, the latter prevails. (Final part of article 4(1) of the LC), see annex:

- Table 24– Guaranteed monthly minimum wage - National Minimum Wage: mainland - (1974-2010).
- 81. In 2007, the guaranteed minimum monthly wage was established at €403; in 2008, it was € 426, corresponding to an increase of + 5,7 per cent and an absolute growth of 23 € a month; in 2009, it was € 450 in 2010, it was € 475.
- Table 25– Average Monthly Compensation and Wage (2006-2010)
- Table 26– Main Economic Indicators (2006-2010)).

82. The normal work period must not exceed 8 hours per day or 40 hours per week (art. 203(1) of the LC). The collective agreements may also adopt daily and weekly limits of maximum working time, in certain circumstances,

83. Annual leave has a minimum length of 22 working days (art. 238 (1)). Payment during leave is equivalent to what the worker would receive if at work.

84. As already stated, combating undeclared work is one of the priorities of the AWC and remains part of its Action Plans through the articulation of control mechanisms with Social Security, Finance Department, and the Alien and Border Services (see annex, table



27– Illegal Offences – Infringements mentions (Labour Code, Regulation and Other Rules) and table 28– Establishments visited<sup>31</sup> /workers covered).

### **Organization and control of working time**

85. 8832 inspection visits were conducted to develop information and monitoring strategies to guarantee compliance with forms of working time. As a result of the inspection activity developed in 2008, AWC filed prosecution reports corresponding to the imposition of minimum fines amounting to €2.255.497. 1580 warning documents were issued relating to remediable irregularities (see annex, table 29– Organization and Control of Working Time)

86. 4904 inspection visits were conducted to control the limit of duration of working time. 989 prosecution reports were filed by labor inspectors on remediable irregularities (see annex, table 30– Limits of the Duration of Working Time).

### **Reconciliation of work with personal and family life**

87. The network of family support infrastructures and the new labor legislation are extremely important to increase the rate of women's participation in the full-time labor market and various measures are in place to promote the reconciliation of work with personal and family life (see annex, table 31– Evolution of the use of parental leaves (2005-2009)).

88. The development of facilities for children through the Programme for the Extension of the Social Facilities Network (PARES) and others (the number of facilities for children under 3 increased 53.7 per cent between 2000-2010), has played a fundamental role in the reconciliation of work with family life and is an undeniable example of the promotion of equal opportunities between men and women.

89. Under the revision of the LC and the new regime of parental leave, several changes were introduced regarding maternity, paternity and parental leaves enlarging the possibilities of sharing the leave between the mother and the father and also increasing the length of the parental leave for the fathers while receiving the same global income when the mother and father share the leave. There are new possibilities for grandparents to be entitled to leave to care for grandchildren and also more possibilities for parents to ask for flexible working time.

90. In Portugal women and men work mostly full time. According to the 2010 Labour Force Survey, 91.8 per cent men and 84.5 per cent women worked full time. In 2010, 15.5 per cent of women worked part-time, compared with 8.2 per cent for men. From 2008 till 2010 the proportion of women working full and part time decreased slightly: 92 per cent to 91,8 per cent and 17,2 per cent to 15,5 per cent (see annex, table 32- Men and women in full time and part time work (2007-2010)).

91. Considering the employment structure by occupational status, men and women are not evenly distributed across the Portuguese labour market among the major occupational categories and economic activities. The feminization rate is higher in certain sectors (see annex:.

- Table 33– Break down of employment by occupational status (2007-2010)

<sup>31</sup> Considered as inspection visit all visits carried out to an establishment, workplace, employer head-office or worker residence by a labor inspector, resulting in a technical information, report or inquiry from the competent processing of the information system.

- Table 34– Feminisation of the employed population by occupation and sex (%), 2011
- Table 35– Employed population by economic activity and sex (%), 2010
- Table 36– Employees according to level of qualification and sex, 2010).

92. The proportion of female workers with temporary employment contracts has invariably exceeded the corresponding proportion of male workers, although the gap has decreased due to the increase of temporary contracts among men (see annex, table 37– Employees by sex and employment contract (thousands)).

93. Although a positive trend is in place, a gender gap persists regarding both wages and earnings. In 2010 women's monthly basic wage was 18 per cent lower than that of men. Taking into consideration the monthly earnings (thus including other salary components) the gender gap is wider: 20.9 per cent (see annex, table 38– Average monthly basic wage by sex, and table 39– Average monthly earnings by sex).

94. Looking at the gender wage and pay gap by qualification level, it is noticeable that it is wider in the higher levels of qualification. Among managers, women earn around 801 Euros less than men (see annex, table 40– Average monthly base remuneration according to the levels of qualification, and table 41– Ratio of women's average gross base salary and earnings to men's average gross monthly base salary and earnings by activity).

95. 376 inspection visits were conducted in terms of equality and non-discrimination on the grounds of gender and as a result prosecution reports were filed corresponding to the imposition of fines amounting to € 55.066, as well as 120 warning reports were issued (see annex, table 42– Equality and Non-discrimination at work and in employment – Nondiscrimination based on gender).

96. The 2004 LC provides for the first time that harassment, including sexual harassment, is a form of discrimination and is therefore unlawful (art. 22). The 2009 LC is more comprehensive on the concept of harassment (art. 29).

97. During 2009 and 2010, 31 complaints were submitted to CITE concerning discrimination based on sex, of which 11 referred to harassment (five of sexual harassment, five of moral harassment and one of both sexual and moral harassment).

98. The employer is liable for ensuring the health and safety of workers in all work related matters and to prevent occupational risks. The LC entitles the worker to be given up-to-date information on health and safety risks, and ensures adequate training in the field of occupational health and safety in the workplace. All activities relating to safety, hygiene and health at work are organized and developed with the participation of workers.

99. Whenever, there are more than 30 employees exposed to high risk activities, the enterprise or establishment should provide occupational health services to these workers on site.

100. Apart from the general legislation on prevention of health and safety in the work place, included in the LC, specific legislation exists related to certain types of risks, due to agents, substances or instruments used to perform given activities, or still, for specific workers such as pregnant workers, breast-feeding and nursing mothers and night workers.

101. The *National Strategy for Health and Safety at Work 2008-2012*<sup>32</sup>, following the European Union New Strategy for Health and Safety at Work for 2007-2012, is intended to

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<sup>32</sup> Approved by Resolution of the Council of Ministers no 59/2008, of 1 April and came into force on 2 April 2008.

reduce occupational hazards and illnesses, and structured to achieve a greater and more effective compliance of the law by micro, small, and medium enterprises

102. Concerning the improvement for working conditions, the *National Action Plan for Prevention (PNAP)*, in 2007, developed the following activities:

(a) Reinforcing the National Occupational Risk Prevention System, especially through the implementation of prevention services in companies.

(b) Development of a National Plan for Occupational Health and Safety Education (PNESST), in conjunction with the Educational and Vocational Training System through:

(i) Awareness-raising /training activities, involving 5.300 students and 960 teachers; Development of Health and Safety at Work Projects aimed at companies, sectors or specific groups, sectors of activity with highest accident rate<sup>33</sup>

(ii) Human resource training, course validation and development of professional training periods for Health and Safety at Work Technicians

103. As National Focal Point of the European Agency for Health and Safety at Work, the AWC promoted several activities to inform and sensitize different target groups.

104. The AWC includes among other competences, the training coordination and certification process of advanced technicians and technicians in health and safety at work (see annex- table 43– Certified Courses; Validated Training; Recognized Training 2005-2007, and table 44– Certified Courses; Validated Training; Recognized Training 2008-2010).

## Article 8 – Trade unions

### Questions 24-26 of the Committee’s reporting guidelines

105. Trade union freedom as well as trade union rights specifically collective agreements and the right to strike are expressed in the autonomy and independence of union organization safeguarded by article 55 of the CPR and further regulated by the LC.

106. Trade unions are governed by self statutes and regulations. Freedom to join or not to join a trade union is protected by the prohibition on discrimination (arts. 404 to 414 and 440 to 456) and by the provisions which generically refer to equality and non-discrimination.

107. Legislation on National Defense and Armed Forces<sup>34</sup> prohibits military personnel of the armed forces in active service and permanent, voluntary and contractual staff from joining a trade union but allows them to affiliate only to professional associations. In fact, Organic Law no 3/2001, of 29 August, regulates the right of association of military personnel, by granting them the right to form an association. Members of the armed forces in active service join freedom of association and assembly, freedom of expression and the right to collective petition.

108. Law no 14/2002 of 19 February regulates the exercise of freedom of association, collective bargaining and participation rights of the Public Security Police (PSP). The

<sup>33</sup> Seminars and sensitization initiatives financed within the Programme to Preventing Occupational Risks and Living Better at Work Prize.

<sup>34</sup> Law 29/82, de 11 December, amended by Laws 41/83, of 21 December, 113/91, of 29 August, 111/91, of 29 August, 18/95, of 13 July, Organic Laws 3/99, of 18 September, 4/2001, of 30 August and 2/2007, of 16 April.

restriction to form and join trade union is only applicable to staff members on their duties. Members of another security force - the National Republican Guard - have also the right to belong to professional associations of freedom of association.

109. The CPR in article 55 (2) (a) guarantees the freedom to form trade unions at every level and the LC sets the correlative right in article 440 (1) by establishing the notions for the associative structures corresponding to various levels in Article 442: Trade Union, Federation and Union Confederation (see annex, table 45- Trade Unions registered in different years).

110. The LC states that trade unions have the right to “initiate and intervene in judicial proceedings in matters of the interest of their associates as foreseen by the law”. It also recognizes other rights of trade unions, namely, participation in the preparation of labor legislation and in the management of social security institutions and other bodies to promote the interest of workers; participation in the supervision and implementation of economic and social plans, under the umbrella of the Economic and Social Council (ESC), the national body responsible for consultation and social dialogue in economic and social policies; representation in social dialogue bodies, namely the Standing Committee for Social Dialogue and integrated in the ESC structure, which promotes dialogue and consultation between social partners to define wage and price policy as well as employment and vocational training policy; and participation in company’s restructuring processes.

111. The State promotes collective agreements to cover the widest number of workers and employers, and trade union associations have the powers to exercise the right of concluding collective agreements.

112. Social dialogue and collective bargaining play an important role both for the Government and the Social Partners generating consensus in the definition of namely, on promoting collective agreements; Vocational training; social security reform; guaranteed monthly minimum wage; new regulation system for labor relations. The compulsory arbitration system in labor regulation, implemented in the last quarter of 2006 is one of the forms to facilitate the resolution of collective conflicts at work.

113. The right to strike is guaranteed by article 57 of the CPR. The regime of the right to strike is present in the LC, article 530 (3), emphasizing a number of aspects, namely, the inalienability of the right to strike (the minimum period is five days and 10 days in the case of an enterprise or establishment satisfying immediate social needs for the strike notice, that also includes the definition of the minimum services required); prohibition for employers to replace strikers by people who were not working in the establishment or business when prior notice was given, as well as to hire new workers to replace strikers on that same date; prohibition of discrimination against workers going on strike or non-strikers.

## **Article 9 – Social security**

### **Questions 27-33 of the Committee’s reporting guidelines**

114. In Portugal, there is a universal social security system, structured to cover all population age groups in the event of sickness, maternity, paternity and adoption, unemployment, work accidents<sup>35</sup> and occupational diseases, disability, old age, death and

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<sup>35</sup> Protection in the case of a work injury is mandatory, and employers or workers must purchase liability insurance for work injury with a private carrier. Health care is not part of the social security system. It is a universal system developed by the National Health Service for residing citizens and is almost free of charge.

family benefits.<sup>36</sup> Law no 4/2007 of 16 January establishes the general guidelines of the system.

### **Citizenship Social Protection System**

115. It comprises the social action subsystem, the solidarity subsystem and the family protection subsystem.

116. The objectives of the social action subsystem are to prevent and overcome situations of need and socio-economic inequality, dependence, dysfunction, vulnerability and social exclusion, as well as to ensure social integration. It also guarantees special protection for more vulnerable groups such as children, young people, persons with disability and the elderly, as well as persons in situations of financial or social need. These objectives are materialized through: access to social services and facilities; projects to eradicate poverty, social dysfunction, marginalization and social exclusion; benefits in kind in exceptional circumstances and cash allowances.

117. The solidarity subsystem aims at ensuring fundamental rights in order to prevent and eradicate poverty and exclusion, as well as ensure benefits for persons and families not covered by the social insurance system. It covers the non-contributory social security scheme and other similar schemes. Protection is materialized through a social integration benefit; social unemployment benefit; a solidarity supplement for the elderly; and social pensions and supplements. Residence in the national territory is the general eligibility condition. Protection is not dependent on registration or payment of contributions but on the beneficiaries' household income. Foreign residents, refugees and stateless persons can access the solidarity subsystem under certain conditions, namely minimum periods of residence. Benefit amounts are fixed by law according to the beneficiaries' income and household composition, in order to guarantee essential needs and ensure basic citizenship.

118. The family protection subsystem has wide coverage and guarantees family allowances and cash benefit in case of dependency or disability. The eligibility conditions are the same as for the solidarity subsystem. Guaranteed protection is materialized through cash benefits. The amounts are established according to the income and the composition of the household.

### **Social Insurance System**

119. This system is founded on the principle of work-based solidarity and seeks to ensure the provision of benefits and allowances, which replace lost work related income. It covers employees, and self-employed workers. Risks covered are sickness, maternity, paternity and adoption, unemployment, work injury, occupational diseases, disability, old age and death. This system covers the general social security scheme mandatory for all employees and self-employed, special regimes and voluntary social insurance scheme. It is based on contributions from employees, employers, and self-employed and persons under voluntary social insurance scheme. The granting of benefits depends on the registration with social security and, where necessary, on the completion of a minimum period of contributions or an equivalent situation.

### **Supplementary System**

120. It consists of a public capitalization scheme (RPC) of collective and individual initiative. The RPC is a voluntary scheme organized and managed by the State to

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<sup>36</sup> <http://www2.seg-social.pt/ingles/>

complement the benefits provided by the public system, in order to increase social protection of beneficiaries. The supplementary schemes of collective (group) initiative and individual initiatives are optional. The collective (group) initiative is in favor of a specific group (and includes supplementary professional schemes), while the individual initiatives take the form of savings-retirement plans, life insurance, capitalization insurance, and mutual benefit schemes.

121. As a rule the fixed minimum amounts as well as the percentage of the reference earnings of the beneficiary for the calculation of benefits are updated regularly. Regarding disability and old age pensions of the general scheme, minimums are fixed according to the number of years of the contributory career, eventually to be achieved by resorting to a social supplement added on to the value resulting from the rules in calculating pensions. Non-contributory pensions and family benefits in case of disability and dependency are updated regularly.

122. Old age and disability pensions – the amount of the non-contributive old age and disability pension has been fixed according to the Social Support Index (SSI) at 44.65 per cent of this value (the SSI amounts to € 419.22 in 2010). Every recipient is also awarded the Extraordinary Supplement of Solidarity which tops this amount (€ 17.54/month for under-65s and € 35.06 for 65 and older, in 2010). The pensions allocated under the Solidarity Subsystem are updated regularly by the same governmental proposals which update the pensions attributed by the social insurance Scheme.

123. Social Integration Income (SII)<sup>37</sup> - Law no 13/2003, of 21 May (meanwhile amended by Law no. 45/2005, of 29 August, and Decree-Law no. 70/2010, of 16 June), revoked the guaranteed minimum income established by Law 19-A/1996, of 29 June, and replaced it by the social integration income (SII). It consists of a non-contributory differential benefit, included in the solidarity subsystem, and an integration programme, to provide individuals and their family with income to meet their basic needs while encouraging them to integrate socially and find employment. The beneficiaries of the Social Integration Income belong to various types of families. A significant increase of mixed type of families can be observed in 2006 and 2007 (in the first semester of 2007, mixed families already represented more than half of all Social Integration Income beneficiaries). However, from 2008 to 2010, this type of family hugely decreased (see annex, table 46- Beneficiaries of Social Integration Income, by family type).

124. Data from 2004 to 2010 show that women represent about 61 per cent of all beneficiaries under the non-contributory system, highlighting their particular vulnerability to poverty. They also represent about 53.2 per cent of all beneficiaries of the Social Integration Income (see annex, table 47– People receiving Social Integration Income, by sex).

125. Solidarity Supplement for the Elderly (SSE)<sup>38</sup> - Decree-Law no 232/2005, of 29 December, with the amendments introduced by Decree-Law no. 236/2006, Decree-Law no. 252/2007 and Decree-Law no. 151/2009, created this extraordinary allowance aimed at fighting poverty among older persons, paid to old age pensioners aged 65 and over and to recipients of the lifelong allowance. The beneficiary's yearly income must be less than € 5,022 and € 8,788.50 for a couple (in 2010).

126. For social protection of maternity, paternity, adoption and particular risks, see replies to question 36.

<sup>37</sup> <http://www4.seg-social.pt/rendimento-social-de-insercao>.

<sup>38</sup> <http://www4.seg-social.pt/complemento-solidario-para-idosos>.

127. The public Social Security System may be supplemented by private or also by the Public Capitalization Scheme (PCS) as foreseen in Decree-Law no 26/2008 of 22 February, adopting the regulations of the Pension Certificates Fund (PCF). The PCS is an individual, voluntary scheme, organized and managed by the State. The contribution of each person joining the scheme is deposited in an individual account and converted into retirement certificates, integrating an independent fund, run by the Social Security Capitalization Fund Management Institute. The contributory rate is fixed at 2 per cent or 4 per cent (or 6 per cent in the case of persons aged 50 and over joining the scheme).

128. Equality between men and women is guaranteed in pensions schemes including age, qualifying period and amount.

129. The new legal regime on protection in case of disability and old age of the social insurance scheme established a general rule for a calculation of retirement pensions. The beneficiaries registered from 2002 and with a contribution career of: (i) 20 years or less; or (ii) over 21 years, benefit from the full application of the calculating rules introduced by the previous regime (Decree-Law no 35/2002, of 19 February). With regard to beneficiaries registered until 31 de December 2001, who have complied with the qualifying period and start receiving their pension until 31 December of 2016 and those that begin receiving it from January 2017, they will benefit from the application of a proportional formula of the previous scheme (1993) and from the regime introduced in 2002, therefore accelerating the transition period to apply the calculating method established in 2002.

130. There has been an alteration in the rules related to the flexibility of the retirement age. A penalty of 0.5 per cent per month is applied if one decides to retire before the age of 65 instead of a reduction of 4.5 per cent per each year of anticipation relative to the age of retirement.

131. The monthly pension bonus rate in case of extending active life over 65 years varies from 0,33 per cent to 1 per cent based on the number of the contribution years recorded on the date of the retirement pension request. The amount of the higher pension cannot exceed 92 per cent of the highest reference salary taken into account for the calculation of the retirement pension.

132. The overall bonus rate is equal to the product of 0.65 per cent for the beneficiaries requesting early retirement without applying the reduction factor, which prolong their active life. Another important change concerns the distinction between relative disability and absolute disability where the entitlement period is of 5 and 3 years of scheme membership respectively. Also, the principle limiting the highest pension values was introduced, that is, a maximum limit corresponding to 12 times the social support index (SSI).

133. The evolution of the number of active beneficiaries, pensioners and respective expenditure concerning pensions are included in the annex:

- Table 48– Social Security System - Active Beneficiaries, Years 2003 until 2010
- Table 49– Number of Pensioners with Disability, Old Age and Survival, by Types of Pension and by Schemes
- Table 50– Social Security System, Expenses with Pensions
- Table 51– Social Security System, Social Security Expenses based on GDP.

134. Foreign workers residing legally in Portugal and in a vulnerable situation are entitled to the Social Integration Income (SII), parental social benefits in case of maternity, paternity, adoption benefits and for particular risks, as well as, to family allowances

provided in the law. Health care is also provided within the scope of the National Health Service.

135. Regarding asylum seekers, refugees and subsidiary protection, Law 27/2008 dated 30 June, contains norms connected to the protection of the right to work, to education, health, social security, motherhood and minors' protection (arts. 51 to 59 and 65 to 79 of the law).

## **Article 10 – Family, motherhood and children**

### **Questions 34-41 of the Committee's reporting guidelines**

136. In Portugal, the minimum legal age for marriage is 16, for both men and women. Under no circumstances is it possible to marry before then. Until reaching the age of majority (18 years) neither boys nor girls can marry without their parents or guardian consent. All marriages are publicly registered. Both spouses have the same rights in acquisition, administration, enjoyment and disposition of property in accordance with the property regime chosen. The family, as the fundamental element of society, is entitled to protection by the Constitution and by the State. Parents have equal rights and duties as regards civil and political capacity and the upbringing and maintenance of their children.

137. Same-sex marriages are legal in Portugal since 5 June 2010. It is the sixth country in Europe and the eighth country in the world to allow same-sex marriages.

138. In the field of social services to support the family and its members, a number of programmes were developed to build and/or extend social support facilities and increase the number of available places:

- Programme to Support the Extension of Social Facilities (PARES), in 2006, for Private Social Solidarity Institutions (PSSI) and similar non-profit institutions.
- Programme to Support Investment in Social Facilities (PAIES) in 2006, to support the development of the social facilities network that granted incentives for investment to for-profit institutions
- Specific Measure to Support PSSI, in 2008, to support construction or completion of works, acquisition of equipment, development of social action activities in PSSI.
- Intervention Typology 6.12 - Support to Investment in Integrated Answers of Social Support, in 2009, for PSSI and similar institutions, to increase the installed capacity of social responses for children, youngsters, elderly population, disabled people, family and community.

139. From 1998 to 2010, there was a general increase of 45,9 per cent in the total number of social responses amounting to more than 4.100 new social facilities. Therefore, in 2010, it was estimated that there were 13.130 facilities in Portugal. There was an increase in Social Security expenses supporting social facilities. Taking into account 1998, spending in 2010 increased by 108 per cent (see annex:

- Table 52– Evolution of the social solution per target population
- Table 53– Investment evolution in services and social facilities (nominal values)
- Table 54– Evolution of investment according to target population
- Table 55– Evolution of the functioning expenses with social facilities).

140. The social facilities for children and young people have revealed a significant development in the last years. In the period 1998-2010, total growth was 32.4 per cent,



which proves the investment in the protection of this target group. The number of *creches* compared to 1998, increased by 63.1 per cent. In the year of 2010, 7000 new places were added to the existing capacity. The coverage rate of the social responses for children aged up to 3 years (early childhood) stands at 35,1 per cent in 2010, reflecting progress towards adjusting to the needs of families and the achievement of targets set by the EU. (see annex, table 56- Evolution of the capacity in social facilities for children and young people, Mainland Portugal - 1998 – 2010).

141. The main social facilities for the elderly (day care, institutional care and home care support) had a significant increase, 65,5 per cent, reflected in over 2600 facilities since 1998, as the result of strong public investment, especially in the case of home help, in order to maintain older persons in their normal living environment. The social facilities for this target population show a growth of the capacity level rate of 68 per cent, corresponding to around 91 300 more places (6700 only in 2010). The use rate of social facilities stood at 82.5 per cent, percentage that has declined, due to the increase of the number of places in this area. Institutional care and home care support were more used (see annex, table 57- Evolution of the capacity in social facilities for the elderly).

142. During the period 1998-2010, social responses for Children, Youth and Adults with disabilities had a significant increase, around 60, 8 per cent, meaning 700 social facilities. The Occupational Support Centre Activities (64 per cent), the Early Technical Support (72, 4 per cent), and particularly, the Residential Home and Home Support (68 per cent) show an increase in the level of growth (see annex, table 58- Evolution of the capacity in social facilities for children, young people and adults with disabilities).

143. The National Network for Continued and Integrated Care (RNCCI) is an integrated intervention model developed by the health and social security sectors in cooperation with civil society. The RNCCI model defined four types of residential care units, that is, until the end of 2010, there were over 4.625 available beds: Convalescence Units (682), Medium term care and rehabilitation (1497), Long term care and maintenance (2.286) and Palliative Units (160) (see annex, table 59 - National Network for Continued and Integrated Care)

144. The profile of users of the RNCCI shows the following characteristics: (a) mostly women (54 per cent); (b) 79,9 per cent were over the age of 65 and 40,3 per cent were over the age of 80 years; (c) most of the users over 80 years are women (62,5 per cent) as opposed to men (37,5 per cent); (d) 49 per cent are married; (e) 21,7 per cent lived alone.

145. Important improvements were introduced in the labor legislation regulating the protection of maternity, paternity and adoption included in the LC, and amended by Law no 7/2009, of 12 February. The LC enlarges the possibilities of sharing the parental leave between the mother and the father and also increases the length of the initial parental leave for the fathers.

146. Protection in this domain covers most workers in general and is implemented as follows: Parental Benefits that include Initial Parental Benefit which can be exclusive for mothers or exclusive for fathers; Initial for one of the parents, if the other parent may not take leave; Adoption Benefit; Extended Parental Benefit; Adoption Benefit in case of extended leave; and Benefit for the care of grandchildren. Special benefits are provided for the care of ill or disabled children; of severely disabled or chronically ill children; in case of clinical risk during pregnancy; in case of voluntary interruption of pregnancy and in case of particular risks.

147. Decree-Law n.º 91/2009, of 9 April, defined for the first time social measures reinforcing maternity, paternity and adoption benefits integrated in the solidarity subsystem. It also increased social protection by awarding maternity, paternity and adoption benefits which guarantee earnings in the absence or loss of remuneration in vulnerable situations, determined by inexistence or insufficiency of their contributory careers. These

social benefits are awarded during a given period to beneficiaries registered with social security and subject to conditions of residence and income.

148. The minimum legal age for work is 16 years. Children must have completed compulsory education, and undergone a physical and psychological medical exam. Minors below 16 can perform light duties.

149. As part of its policy to have a more informed debate on child labour, the government conducted two household surveys in 1998 and 2001.

150. PETI – Programme on the Elimination of Child exploitation) has obtained significant results in the elimination of child labour through concrete interventions and measures to prevent the early entry of children into active life, mainly through the Integrated Program of Education and Training (PIEF). Since 1999, this measure has supported 11.985 young people in completing compulsory education. In September 2009, competencies of the Programme in relation to preventing and combating child labour were transferred to the Authority for Working Conditions (AWC) while the social inclusion objectives were reinforced through the creation of PIEC - Programme for Social Inclusion and Citizenship, to develop a wide range of measures to prevent school drop-out and any form of child exploitation.

151. Information gathered by the AWC on the number of serious illegalities detected including on child workers, between 1997 and 2008, demonstrates that there has been an extremely positive evolution in this field. In fact, whereas in 1997, for every one thousand-inspection visits conducted in vulnerable workplaces, there were 114.23 minors identified, in 2008 this indicator has been reduced to 0.49. Information regarding PIEF was submitted in the core document and the third report on the Convention on the Rights of the Child.

152. As far as criminal protection is concerned, Portugal amended its Criminal Code in 2007 (Law 59/2007, of 4September) in order to introduce a specific provision on the violation of security rules (art. 152-B) criminalizing the subjection of a worker to hazardous conditions or to the danger of serious offences to his body or health in disrespect of laws or regulations. Such conduct is punishable with an imprisonment penalty of one to five years, aggravated if the conduct results in a serious offence to physical integrity (two to eight years) or death (three to ten years). Negligence is punishable.

153. Another criminal policy measure aimed at combating the phenomenon of children's exposure to violence and hazardous activities is the new article 152-A of the Portuguese Criminal Code, on corporal punishment (Law 59/2007 of 4 September). The Article stipulates that whoever takes care, is responsible for the upbringing, has under the responsibility of his direction or education or working at his service a minor or a particularly defenceless person, and inflicts, in a reiterated manner or not, physical or psychological abuse, including corporal punishment, deprivation of freedom and sexual offences, or gives cruel treatment, employs him/her in hazardous, inhumane or illicit activities or overloads him/her with excessive work, shall be punished with an imprisonment sentence of one to five years. The penalties are aggravated if the conduct results in a serious offence to physical integrity (two to eight years) or death (three to ten years).

154. The new Law on Asylum adopted in 2008 establishes the possibility for the Portuguese Refugee Council (national NGO) to legally represent asylum-seekers as well as the suspensive effect given to all jurisdictional appeals during the asylum procedure.

155. The Asylum Law requires the retention of asylum seekers in the international area of the airport during the admissibility stage. Regarding unaccompanied minors, this temporary accommodation shall follow special conditions in accordance with international recommendations namely by UNHCR, UNICEF and ICRC. The practice followed by the

Borders and Aliens Service (SEF) has been allowing their immediate entrance in national territory and referral to the Reception Centre of Bobadela, managed by the Portuguese Refugee Council, for an initial period of 6 months renewable and under the supervision of the social services. This Centre responds to basic needs of asylum seekers (food, clothing, pocket money and Portuguese tuition classes) during the admissibility phase.

156. The asylum law gives a set of social rights for asylum seekers, including: support for social housing and food for those applicants who are in a situation of economic and social deprivation, health care and medications, access to education, right to work and access to programs and measures of employment and training after the admission application. The asylum law provides for the right to family reunification of beneficiaries of international protection under more favourable conditions than other third-country nationals (migrants), including exemption of existence of conditions of accommodation and means of subsistence.

157. Special attention is paid to women in the context of the Asylum Law, who are now registered separately. The new Law establishes that acts of physical or mental violence, including acts of sexual violence and acts committed specifically in terms of gender or against minors are amongst the Acts of Persecution that are susceptible to ground the right of asylum.

158. The criminal law reform carried out in 2007 introduced changes in what concerns domestic violence, trafficking in human beings and female genital mutilation, namely:

159. Domestic violence is for the first time typified as an autonomous crime (art. 152), punishable by one to five years of imprisonment.

160. Trafficking in Human Beings: the Criminal Code establishes a definition of the concept which now includes, apart from sexual exploitation, labour exploitation and the extraction of organs, adopting specific categories for this type of crime and punishing those who knowingly use the sexual services of victims of trafficking.

161. Female genital mutilation is considered as a criminal offence, punishable under article 144 (b) of the Criminal Code,

162. Under the Criminal Code, the killing of the partner, ex-partner, person of the same sex or different sex with whom the offender has or had a relationship analogous to that of partners, even without cohabitation, or against a progenitor of common descendent in the first degree, is held to be qualified murder, punishable by 12 to 25 years of imprisonment (art. 132) (see annex, table 60– Number of occurrences per year since 2000).

163. According to article 152 of the Criminal Code, rape in marriage is a form of domestic violence. As already mentioned, the 2007 amendment to the Criminal Code introduced domestic violence as an autonomous crime comprising also sexual offences. However, the penalty foreseen by article 152 is only applicable in the absence of a more severe penalty applicable through another legal disposition. The provision of article 164, which specifically foresees rape, punishes this crime with imprisonment from three to ten years.

164. As already mentioned in article 3 of the report, Portugal adopted its III National Plan against Domestic Violence (2007-2010)<sup>39</sup> with a focus on violence inflicted on women in their domestic environment. Some of the legislative advances were:

- Law n.º 104/2009– Compensation to victims of domestic violence.

<sup>39</sup> Resolution of the Council of Ministers no 83/2007, of 22 June

- Decree-Law N°120/2010- Regulates the establishment, operation and the exercise of powers and duties of the Commission for the Protection of Victims of Crime.
- Administrative Rule N°220-A/2010– Teleassistance and Electronic surveillance (technical means of distance control of perpetrators).

165. Concerning Domestic Violence statistics, every year since 2008, the Directorate-general of Internal Affairs produces an annual report regarding police registrations on domestic violence as a part of the Annual Report on Internal Security. Since 2010, it produces a fact sheet every semester with the police registrations on domestic violence regarding the previous six months allowing national authorities to have a closer perception of the phenomenon. The majority of the complaints are made by women (81,6 per cent), although there is an important number of men participating this crime (18,4 per cent). About 34 per cent of cases took place during the weekends (18 per cent on Sunday and 16 per cent on Saturday) and the remainder over the rest of the week. Almost half of the cases were recorded between 7.00 p.m. and 00.00 a.m. (46 per cent), 9.7 per cent during the night, 17 per cent in the morning and 28 per cent in the afternoon.

166. There were 3124 women victims of domestic violence supported by the Domestic Violence Centres, around 5200 women and children hosted in the Network of Shelters, and more than 10.000 calls received in the emergency help line.

167. Since 2005, every year, several campaigns are waged against violence against women. They include many initiatives such as training, seminars and debates and distribution of campaign materials in events addressed to specific publics. In November 2008 another nationwide one year campaign was launched targeted at teenagers and young adults and focusing on the “prevention of violence in dating relationships”. Under the framework of the III National Plan against Domestic Violence almost 200 training sessions for over 4.000 trainees were organized targeting different audiences, such as security forces officers, professionals from the education sector, health sector, judges and other professionals from the justice sector.

168. In the framework of the Council of Europe’s Campaign to Combat Violence Against Women, including Domestic Violence, Portugal organized one of the five scheduled regional seminars, which demonstrates the effort and investment in the implementation of the successive national plans against domestic violence and also in the growing involvement of civil society.

169. In 2010, Portugal approved the Fourth National Plan against Domestic Violence (2010-2013) aimed at consolidating the strategy and actions previously developed.

170. Portugal has in place specific legislation on trafficking in persons for sexual exploitation, labor exploitation or human organs removal. The crime of trafficking in human beings, punishable under article 160 of the Criminal Code (Law 59/2007, of 4 September), transposes article 3, paragraphs (a) and (b) of the Protocol on Trafficking in Human Beings supplementing the United Nations Convention on Transnational Organized Crime into the Portuguese legal system.

171. Portugal approved the *First National Plan against Trafficking in Human Beings (2007-2010)*, establishing as a strategic priority the implementation of an all-round approach to combat this phenomenon effectively. Following the most recent developments in terms of the international approach, this includes situations of trafficking for both sexual and labour exploitation. The main objective of the I National Plan against Trafficking in Human Beings (I PNCTSH) was the creation and consolidation of a comprehensive referral mechanism at national level for the assistance and protection of victims of trafficking.

172. The creation of a Shelter and Protection Centre for Victims of Trafficking and their Children (CAP) that provides for protection/safety, medical, legal and psychological assistance, translation services and access to official programmes, constitutes a structuring element in approaching this reality from a human rights perspective.

173. One of the most important advantages in implementing the first PNCTSH, as emphasized by the evaluation report, was the investment made in intervention areas such as prevention, awareness-raising, training and investigation that significantly contributed to raise public and decision makers' awareness to human trafficking.

174. The Observatory of Trafficking in Human Beings, created by Decree-Law no. 229/2008 of 27 November, is the body, within the Ministry of Internal Affairs, responsible for collecting information related to human trafficking and other forms of gender violence. Between the years of 2008-2011, the number of cases registered by law enforcement and NGOs of potential victims in Portugal (Portuguese and foreigners) and abroad (Portuguese) was of 479. From this total: i) Number of identified victims by Law Enforcement Agencies: 122; ii) Number of unconfirmed victims of THB by Law Enforcement Agencies: 278; iii) Number of cases still in the process of confirmation in September 2012: 37.

175. The Directorate General for Justice Policy (DGPJ) is the body, within the Ministry of Justice, responsible for the official justice statistical data. The "Justice Statistical Data system", is available through the DGPJ website: <http://www.dgpj.mj.pt/sections/estatisticas-da-justica>. DGPJ provides the Observatory of Trafficking in Human Beings) with statistical information, and regularly collaborates in providing statistical data for national and international reports on the phenomenon of trafficking in human beings and other forms of gender based violence.

176. In 2008, 15 inspection visits were conducted by the AWC to detect situations of exploitation and human trafficking, which resulted in the identification of several offences committed and punishable with a fine of € 2.880 (see annex, table 61– Exploitation and Human Trafficking).

## **Article 11-The right to the continuous improvement of living conditions**

### **Questions 42 and 43 of the Committee's reporting guidelines**

177. The poverty threshold follows the definition adopted officially by EUROSTAT. The threshold is set at 60 per cent of the national median equivalized disposable income (after social transfers).

178. The National Action Plan for Inclusion (NAP) defines the national strategy to fight poverty and integrates the European Strategy for Social Protection and Social Inclusion 2008-2010. The Plan is based on a Monitoring System supported by: (i) structural indicators of social cohesion and Laken indicators (primary and secondary) which ensure comparability among EU Member States; (ii) result indicators in relation to each of the four objectives and targets set in the Plan and (iii) monitoring indicators to implement policy measures used to measure progress in their implementation.

179. In the Framework of the global strategy defined for Social protection and Social inclusion 2008-2010 within the NAP, the government adopted several measures to promote social inclusion and prevent situations of poverty and social exclusion that have already been mentioned in previous paragraphs, such as: (i) Social Integration Income (ii) Solidarity Complement for the Elderly; (iii) Social Network Programme; (iv) Local Contracts for Social Development; (v) Programmes to Enlarge Social Equipments (PARES and PAIES); (vi) Continued Care Network; (vii) Housing Comfort Plan for Elderly People; and (viii) Elderly People's Integrated Support Programme (PAII).

180. In order to combat the social inequalities identified and promote active social inclusion, the NAP assumes a multidimensional approach based on *three main priorities*: combat and eradicate situations of persistent poverty, namely children and elderly; correct education and training disadvantages, by preventing exclusion and contributing to interrupt the poverty cycles towards a sustainable and inclusive development as well as, promote actions to overcome discrimination by reinforcing the integration of specific groups.

181. In line with *Priority 1*, the measures range from social protection, tax benefits, social work in schools, to measures for children and young people considered at risk. In the combat against *child poverty*, the measures are within the educational system namely at the pre-school level and conditions to complete compulsory education.

182. Specifically for the *elderly*, priority has been given to increasing their income and consolidating the social facilities network. Also special emphasis was given to their housing situation, following a housing requalification policy. Reference should be made to the Solidarity Complement for the Elderly (CSI) created through Decree-Law 323/2005, of 29 December 2005, aiming to reduce poverty among people aged 65 or more<sup>40</sup>, by trying to provide the elderly with an annual income of not less than 4200€. This amount is aimed at old-age beneficiaries of survival pensions or equivalent, in any social protection system, national or foreign, legally resident in Portugal.

183. In 2006, the CSI targeted only those aged 80 or over. It was claimed by 23,849 older people, with a total of 18,017 beneficiaries at the end of the year. At the end of 2010, CSI covered nearly 223 thousand people aged 65 and over, whose incomes were below the poverty line, allowing them an average monthly income's increase of € 115.66 (2010). Of the claimants of 2010, approximately 60 per cent were women.

184. In relation to *Priority 2*, efforts have been carried out in order to guarantee the general access of children between 3 and 5 to pre-school education.

185. Investment has also been carried out within the scope of Information and Communication Technologies (ICT) to reduce info-exclusion, through training and certification projects in ICT, by generalizing the access to low cost laptops distributed to students from 7th-12th level of schooling, and e-School Programmes as well as the creation of Centres for Digital Inclusion and duplication of Free Internet Access Points in Public spaces.

186. Regarding *Priority 3*, the policy measures for people *with disability or impairment* focus on the following key interventions: income; facilities and services; accessibilities; education, adjustment of the school system, training and employment; social protection; institutional empowerment; and rights.

187. The policy measures targeting *immigrants* seek to fulfill their rights namely through initiatives in access to services; social protection, education and training; employability and employment; access to rights/legal aid.

188. In what concerns *ethnic minorities*, namely the Roma communities, they already have access to a significant number of measures and programs which target people and groups in a situation of poverty and exclusion, namely the Social Integration Income, re-housing programmes, social protection measures, and social work in school, among others.

189. Since 1997, Social Networks (under the *Programa Rede Social - Social Network Programme*) were constituted within territories of all 278 Municipalities of Portugal

<sup>40</sup> Through a phased application: in 2006, only for individuals aged 80 or more; in 2007, for those aged 70 or more; from 2008, for all the universe of people financially in need aged 65 or more.

Mainland. A Social Network is a forum based on free participation that articulates and assembles local authorities and public or not-for-profit private entities to eradicate or mitigate poverty and social exclusion through promoting strategic planning and social development. In this context, there are also Contratos Locais para o Desenvolvimento Social - local contracts for social development (Decree 396/2007, of 2 April) whose territories are selected according to a previous assessment, where the respective Municipalities are invited to develop a project, together with a coordinating NGO, organized from local social networks, through intervention partnerships for family and community; employment and training; accessibilities; and information. On 31st December 2010, there were a total of 73 CLDS in progress.

### **The right to adequate food**

#### **Questions 44 to 46 of the Committee's reporting guidelines**

190. As a member of the European Union (EU), in the context of its Common Agricultural Policy (CAP) Portugal promotes the competitiveness of agricultural holdings and their sustainability, by taking into account the existing handicaps in many parts of its territory. Portuguese farmers have access to policy instruments to correct market failures that may contribute to make agricultural production less attractive in those regions. Although Portugal has a negative trade balance in agricultural products, production is thus promoted throughout the country, enabling consumers to meet their food needs. Moreover, the operating rules of the EU internal market provide for mechanisms to re-allocate agricultural and food products between Member States, when necessary.

191. In 2005 the National Programme against Obesity was launched to lower the prevalence of pre-obesity and reduce the growth of obesity. In 2007 the health sector, conscious of the difficulty of addressing this problem alone, created the National Platform against Obesity<sup>41</sup>, a strategic measure with the aim of creating intersectoral synergies both at the level of government and civil society. One of the goals of the Platform was to create and disseminate nutrition education materials, particularly healthy diets related materials.

### **The right to water**

#### **Question 48(a) of the Committee's reporting guidelines**

192. The Portuguese water law (Law n° 58/2005 of 29 December) considers the social value of water. Physical access to water services is also guaranteed by law (Decree-law no 194/2009 20 August). Operators must provide water services through public networks when their infrastructure is at a distance equal or less than 20 meters.

193. The decree-law no 243/2001 5 September transposes into domestic law the Council Directive no 98/83/EC, of 3 November, that regulates the drinking water quality in order to protect human health from adverse water contamination effects.

194. To solve potential affordability problems, the Regulatory Entity for Water and Waste Services (ERSAR) has published a recommendation on water services tariffs to guarantee that sanitation and water facilities and services must be accessible at a price that is affordable for all people. The reference thresholds established to ensure affordability access to water and sanitation services in Portugal (Decree-Law no 5/2009, of the Ministry for the Environment, Spatial Planning and Regional Development) are set by an expenditure, which cannot exceed 0.75 per cent of the monthly average income, or in some circumstances, 1.25 per cent, considering a 10/m3 monthly consumption. 664. Portuguese

<sup>41</sup> [www.alimentacaosaudavel.dgs.pt](http://www.alimentacaosaudavel.dgs.pt).

operators have defined increasing block tariff structure (the volumetric charge changes according to several blocks depending on volumes consumed) to benefit low income households and to promote economic efficiency.

#### **Question 48(b) of the Committee's reporting guidelines**

195. The Strategic Plan for Water Supply and Wastewater Services –PEAASAR II (2007-2013)<sup>42</sup> has as its main objective to serve 95 per cent of the country's population with water supply systems in terms of continuity and quality. In 2007, the population served by public water supply was about 92 per cent. Regarding drinking water quality, around 97 per cent of the water provided is controlled through regular procedures and is of good quality (see annex, table 62– Water quality evolution in recent years)

#### **Question 49 of the Committee's reporting guidelines**

196. Two management instruments deserve to be highlighted: National Plan for the Efficient Use of Water (PNUEA) and PEASAAR 2007-2013. The combination of these two instruments provides Portugal with the necessary guidelines for the use of best environmental practices, whenever integrated management of water, its efficient use, control and pollution are at stake.

197. PNUEA sets the following targets to be achieved by 2025: 80 per cent of efficiency in water consumption in the urban sector; 65 per cent of efficiency in water consumption in agriculture; 85 per cent of efficiency in water consumption in industry sector. On the other hand, ERSAR has also published a series of technical guides to promote better practices within the water sector in Portugal.

#### **The right to adequate housing**

#### **Questions 50-53 of the Committee's reporting guidelines**

198. In Portugal, the overall number of homeless individuals is not known. However, the growing complexity of social exclusion has accentuated the visibility of the problems of homeless people, requiring adequate solutions. The 1<sup>st</sup> National Strategy for the Integration of Homeless People (2009-2015) was launched on March 14, 2009, with a rights-based approach, including the right to housing and equal opportunities. The goals are framed upon two basic axes: (1) information; combat against discrimination; education; (2) qualification of intervention.

199. By the end of 2009, a questionnaire was sent to every local network in order to characterize the known homelessness situations. Responses were received from 53 counties concerning homeless people (on the street overnight and in unconventional settings such as cars and abandoned buildings) and houseless people (situations of emergency accommodation, downtown accommodation in temporary accommodation or pension or rented room). With this questionnaire, it was possible to identify and interview 2.126 homeless people (1.777 male and 349 female). This number does not represent the total homeless population in Portugal, but it enabled public authorities to have a reliable sociographic picture of the homeless population in Portugal<sup>43</sup>.

<sup>42</sup> [http://www.inag.pt/index.php?option=com\\_content&view=Article&id=266](http://www.inag.pt/index.php?option=com_content&view=Article&id=266)

<sup>43</sup> Population mostly male (84%), about 60% are between 30 and 49 years; Portuguese Nationality - 82%; majority of this population is isolated - 83%; educational level is relatively low (31% completed the first cycle and 23% completed the second cycle); Most often stayed overnight on the street (32%) or in temporary accommodation centre (22%);



200. Based on the results of the questionnaire, seven priority counties were identified—Braga, Porto, Aveiro, Coimbra, Lisbon, Setubal and Faro. These counties are in different stages of the implementation of the national strategy. Globally, till December 2010, seven had prepared the assessment on homelessness, and four had designed their own development plans. Other local networks — Cascais, Oeiras, Almada, Seixal, Figueira da Foz — have already constituted Núcleos de Planeamento e Intervenção Sem Abrigo - planning and intervention units for homeless people. Also in six other counties there are working groups tackling specifically homelessness and homeless people. A *Housing First project* for mentally ill homeless people has been developed in the city of Lisbon, since 2009, through a protocol signed between the Institute for Social Security and the Association for Research and Psychosocial Integration. Till December 2010, this project has provided housing and personalized support to 42 homeless people suffering from mental illness.

201. Special efforts have been made to reduce housing shortages in Portugal, namely through the Relocation Programmes (PROHABITA<sup>44</sup> and Special Re-Housing Programme - PER<sup>45</sup>) and Programme of Solidarity and Support for Housing Recovery (SOLARH)<sup>46</sup>. These Programmes are indexed to household income and are aimed at people with limited economic returns.

202. **PROHABITA:** Integrates a number of measures and initiatives to support families with housing difficulties, namely by promoting cost-controlled housing within Cooperative Promotion; reinforcing retrofitting; constructing or transforming buildings into social facilities in social housing neighborhoods; and providing direct financial support to family households for re-housing in case of natural disasters or emergency situations.

- **Housing Comfort Programme for the Elderly (PCHI):** Improves the basic residential conditions and accessibility of the elderly in partnership with the Municipalities.
- **Door 65:** (i) young people - programme promoting rent controlled housing for young people (from 18 to 30 years); (ii) Housing benefit and mobility-programme to make available public and private property for direct or mediated rent through housing stock; (iii) Management and proximity: initiative to support the management of public rental stock through contracts with local authorities; (iv) Supported housing (Cohousing) - support tool for entities with social solidarity objectives, of renting collective housing for population groups with specific permanent or temporary needs.

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The reason for the current situation is linked to family breakdown (33%), unemployment or job loss (22%) and personal problems (21%).

Around 28% are entitled to the Social Integration Income, and 11% to old age or disability pensions, about 25% do not have any fixed income and only 4% have income from salary.

Main problems identified: drug abuse (28%), alcoholism (19%) mental health (11%), looking for work (around 17%).

<sup>44</sup> The Decree-Law n. 135/2004 of July 3rd creates the PROHABITA program [Financial Program for Housing Access]. Later on the new Decree-Law n. 54 n/2007 of March 12th deepened its coverage of precarious housing situations.

<sup>45</sup> The Special Re-Housing Programme was launched in 1993 through Decree-law 163/93, and was amended by Decree-Law no 271/2003, 28 October, with the objective of eradicating the slums existing in the metropolitan areas of the two biggest Portuguese cities, Lisbon and Porto.

<sup>46</sup> SOLARH - To help older persons there is the Program SOLARH: is intended to finance in the form of an interest-free loan, the carrying out of upkeep works and improvements to permanent own housing and uninhabited housing owned by individual or public entities, including common parts of buildings.

203. The Institute for Housing and Urban Rehabilitation (IHRU)<sup>47</sup> has a relevant role in supporting low-income families. IHRU has 12 000 units for rent to these families. There are waiting lists on the IHRU housing public stock responsibility, but there is no information on length waiting average. The housing public stock rehabilitation owned by IHRU involved an investment of 6 Million€. The number of interventions in housing under the PER and PROHABITA Programmes has increased significantly from 1 962 in 2005, to 4 000 in 2008. Under the SOLARH Programme, between 2007 and 2008, IHRU granted loans amounting to 3 Million €, with an impact on 300 units. Under the Door 65 Programme, between 2007 and 2008, 9 499 applications were approved, which benefited 13 670 candidates.

204. Discrimination, whether in the context of programmes to support families in obtaining housing or in cases of forced eviction is prohibited.

## Article 12 – The Right to health

### Questions 55-57 of the Committee's reporting guidelines

205. Portugal has a national health system with universal access to primary health care in place based on the principles stated in the Article 64 of the Portuguese Constitution and in Law n° 48/90, of 24 August 1990, as amended by Law n° 27/2002, of 8 November 2002. The National Health System incorporates the National Health Service (SNS), public and private institutions, and all the professionals who enter into agreements, contracts and conventions with the SNS for the provision of health care. The core strategic goal of the SNS is based on the concept of health gains, with an emphasis on health promotion and disease prevention and the integrated management of diseases. The SNS gives priority to four national health programmes (cardiovascular diseases, cancer, HIV/AIDS and mental health) and focuses on integrating the other national health programmes by better managing chronic diseases and by promoting health in schools, at the workplace and in prisons.

206. In order to ensure the universality of the use of health-care services, the SNS covers Portuguese citizens; citizens of the other EU Member States, in accordance with Community rules; foreign citizens, who reside in Portugal, subject to reciprocity; stateless persons who reside in Portugal; underage foreign citizens who are present in Portugal illegally but are registered.

207. Care is provided by a network of health services that includes:

- *Primary Healthcare Network* related to individual and family health and illness undertaken on an outpatient basis, in health centres located in the communities.
- *Hospital Care Network*, for individuals suffering from acute illnesses and in need of an urgent or inpatient response, or in relation to whom there has been a request for a diagnosis or treatment that requires complex facilities or highly specialized and technically differentiated organizational structures.
- *National Network of Integrated Continuous Care (RNCCI)*, composed of a range of sequential healthcare and/or social support interventions that are carried out following a joint assessment, and focus on overall recovery of dependent persons by means of their rehabilitation, re-adaptation, and family and social reinsertion.

<sup>47</sup> <http://www.portaldahabitacao.pt/pt/ihru/>

208. The Portuguese health system is not limited to the SNS, since there has always been a large private sector that sells services to both individuals and the SNS itself, in order to ensure access to a more diversified range of healthcare service providers and simultaneously a more rational and efficient coverage of the whole country in terms of healthcare services, be they public or private.

209. The Health Ministry has implemented and developed policies and mechanisms to facilitate the population's informed and participatory access to health and the provision of preventive, curative and rehabilitative care. These policies and mechanisms are reflected in the strategies set out in the National Health Plan 2004-2010 (PNS).

210. Protecting people's health throughout their lifecycles has played an essential role in improving both well-being and the health-related indicators, as well as in promoting the reconciliation of work and personal and family life. Of particular note are a number of specific measures designed to pursue these objective, such as:

- The improvement of the National Reproductive Health Programme (PNSR), by providing special doctor's appointments for risk pregnancies, the prenatal detection of abnormalities and early interventions, and the Child Development Centres (CDIs).
- A campaign for the implementation of priority attendance of coronary cases and strokes (CVAs), and support for the creation of cardiac and stroke-patient rehabilitation units.
- Support for the development of non-governmental organizations that represent users and families and of self-help groups
- The development and implementation of the Occupational Health Programme (PSO) and of the National Programme for the Health of Elderly Persons (PNSPI).

211. The National Programme for the Prevention and Control of Oncological Diseases (PNPCDO), which followed on from the National Oncological Plan 2001-2005 (PON), is intended to reduce the rate of cancer-related cases and deaths in Portugal by means of a range of measures, including health education and the promotion of good health; early detection and diagnosis; better quality diagnoses; and correct and timely treatment.

212. It is important to note efforts being made to promote access to hospital care, which has resulted in improvements in terms of: access to surgery; access to outpatient appointments, particularly first appointments; the treatment of oncological diseases; and outpatient surgery and the emergency network. This is reflected in the following measures:

- The 'Timely Appointment' Programme (PCTH);
- The Ophthalmological Intervention Programme (PIO, for cataracts);
- The implementation of the 'e-agenda', which involves the various health services (hospitals and health centres, and especially the Family Health Units – USFs), and uses multichannel technological platforms (Internet, telephone, SMS);
- Improvements in the Integrated System for Managing the List of Persons Registered for Surgery (SIGLIC).
- In order to continuously improve the levels of the services and their quality, some of the important measures taken include: implementation of the Health Reception Centre (CAS); further implementation of mobile healthcare units targeted at immigrant and ethnic minority communities; and the creation of the Oral Health Cheque project, which enables some segments of the population –

particularly children, pregnant women, and elderly persons with low incomes – to gain access to dental care.

- The implementation of the National Network of Integrated Continuous Care (RNCCI) already referred to previously has made it possible to improve access to adequate care namely for those in need of continued care that is no longer acute care. In order to speed up the Network's development the Ministry of Health spent 38 million Euros in 2010 as an investment to open new inpatient units. There is a strong focus on home care through Integrated Home Care teams (health and social support) within Primary Care Health Centers. By promoting the articulation between different sectors (such as government, local authority, and civil society), and implementing communication, information and awareness-raising policies, it has been possible to develop until the end of 2010, 853 beds in Convalescent units, 1709 beds in Medium-term and rehabilitation units, 2587 beds in Long-term stay and maintenance units and 237 beds in Palliative care units. These beds represent a 17.4 per cent growth related to 2009. The capacity of the Integrated Home Care teams rose 60 per cent in relation to 2009. 70 per cent of the users who have been admitted to the RNCCI came from hospitals and 30 per cent from home. 80 per cent of the users admitted are aged 65 or more. Very old persons (aged 80 or more) account for 40 per cent of patients.

213. The General Directorate of Health, of the Ministry of Health, has a Division for Sexual and Reproductive Health producing and monitoring the application of technical and quality norms. Family planning and contraception are free and of universal access. The support to vulnerable groups (sex workers, victims of domestic violence and female genital mutilation, detainees and ethnic minorities) is carried out through specific programmes.

214. The continuous improvements in maternal and children's health have led the country to have one of the best maternal and infant mortality rates in Europe.

215. The current health policy seeks to strengthen the planning and management of resources from a "better value" perspective that is making efforts to offer the best care in the right place and at the right time, at a price that is fair for the whole population, including the groups that are more vulnerable or exposed to greater risks. The combination of the centralized acquisition of medical services, drugs and other items via the Public Health Purchasing Catalogue (CAPS), and a greater management autonomy on the part of public health providers (making hospitals entrepreneurially minded) has not only made it possible to make purchasing easier, but has also ensured effective competition between suppliers.

216. Policies on medicines, such as increased incentives for the prescription of generic medicines as well their availability at pharmacies; increase in the number of drugs that can be bought without a doctor's prescription and the introduction of electronic prescriptions at some hospitals and health centres, are designed not only to reduce spending on contributions towards the cost of medicines, but also to further the fight against fraud and waste. The revision of the policy on State contribution to the cost of medicines, with changes in the rates at which the State pays part of the cost, as well as a reduction in the price of some medicines and the profit margins on their sale, achieved a containment of public spending worth 25 million Euros in 2005, 100 million in 2006, and 215 million in 2007.

217. The Ministry of Health has established and implemented the National Strategy for Quality in Health, with the following main priorities: clinical and organizational quality; transparent information for the citizen; patient safety; national accreditation of health units; integrated disease management and innovation; management of the international mobility

of patients; assessment of claims and suggestions made by users of the National Health Service (NHS). Such strategic priorities have required the development of a number of actions, namely implementation of a national indicators system, enabling to monitor the levels of clinical and organizational quality of health-care units; dissemination of procedural guidelines, in order to avoid the most frequent causes that jeopardize patient safety, mainly, clinical error, surgical error and medication error; establishment, follow-up and assessment of new experimental management models for the most prevailing, disabling and onerous diseases; evaluation and orientation of all claims and suggestions made by the citizens.

218. In Portugal, in the 2000-2010 decade, the Strategic Plan for Supply and Cleaning of Residual Waters (PEASAR I) allowed for a qualitative step in the field of supply, from 80 per cent of the population served with water at home, to 92 per cent. In the field of draining residual waters, the increase was from 65 per cent to 80 per cent and in terms of adequate treatment we are at 70 per cent of the population. The objectives of the Second Strategic Plan for Supply and Cleaning of Residual Waters (PEASAR II) are to serve 95 per cent of the population with water at home, and 90 per cent with draining and treatment of used waters.

219. Portugal has a free nationwide National Vaccination Program, which covers between 90 per cent - 95 per cent of the population for a great number of vaccines. The most recently vaccine introduced in the Program (in 2008) is against Human Papilloma Virus.

220. There are national programs for the elimination and control of Poliomyelitis, Measles, Congenital Rubella Syndrome, which include epidemiological surveillance. There is clinical and laboratorial surveillance for Invasive Pneumococcal Disease, coordinated by the Portuguese Pediatric Society and the Faculty of Medicine of the University of Lisbon.

221. Concerning measures taken to prevent the abuse of alcohol and tobacco, and the use of illicit drugs and other harmful substances in particular among children and adolescents, the main investment by the Drug and Drug Addiction Institute<sup>48</sup> (IDT), which is the main national actor in the area of drug abuse prevention, is in four priority areas:

(1) The Operational Plan of Integrated Responses (PORI) for a national needs assessment to define territories for priority intervention in cooperation with the local communities and governmental and non-governmental organizations.

(2) Program of Focused Intervention (PIF) – for vulnerable groups designed to increase the number of preventive interventions for families, children and vulnerable youth and individuals with patterns of psychoactive substance use in recreational settings. The final report presented in 2010 and the results of the evaluation showed that the execution of the projects exceeded what was initially foreseen in terms of number of actions and coverage of target groups

(3) Diagnosing and designing interventions for areas lacking in responses, such as the use of steroids in gyms, the university setting, minors under the tutelage of the State, interventions in the work setting and in professional schools;

(4) The consolidation and dissemination of a website addressed to young people [www.tu-alinhas.pt](http://www.tu-alinhas.pt).

222. During the school year 2008/2009, several prevention activities, and projects were developed in the school settings, for example *the Atlante Project* (for the second and third cycle of Basic School); *the Growing up by playing Programme* (for the first cycle); *the*

<sup>48</sup> <http://www.idt.pt/EN/Paginas/HomePage.aspx>

*Preskills programme* for preschool; the launch of *Me and the others Project*; the *Village Project* and the *Among Everyone Project*, among others. Another example of universal prevention is the Project “Copos. Quem decide és tu” (Drinks...the decision is yours!), to raise awareness between secondary school population, aged between 15 and 20 years, to the problems of harmful use and early drinking. The project has substantially increased its interventions, expanding to more districts, more schools and more students. The IDT also runs a national telephone helpline, *Linha Vida – SOS Drogas*, an anonymous and confidential service available from 10 am to 8 pm every working day.

223. The main priorities established by the National Plan on Drugs and Drug Addiction for the 2005-2012 period in the area of treatment are:

- To ensure timely access to integrated therapeutic responses to those who request treatment;
- To make different treatment and care programmes available, encompassing a wide range of psycho-social and pharmacological possibilities, based on ethical guidelines and evidence based practices for problematic drug users and vulnerable groups;
- To implement a continuous process to improve the quality of therapeutic programmes and interventions targeted to professionals in the treatment area.

224. In 2008, a monitoring system was developed to allow for the state of the art assessment every three months, regarding interventions in rehabilitation. In 2010, this process was consolidated, by the possibility given to every professional to make the registrations online. The analysis of indicators illustrated individual needs, particularly in terms of housing, training and unemployment. During 2010, 484 users were integrated in a housing response, namely through temporary accommodation, and 2.011 users were professionally integrated

225. According to the WHO/UNAIDS classification, the portuguese HIV epidemic is concentrated. Estimated prevalence among general population is below 1 per cent, but in some most-at-risk groups (injecting drug users, men who have sex with men, sex workers and prisoners) it is more than 5 per cent.

226. To ensure universal access to earlier HIV infection diagnosis, the National Programme for HIV/AIDS Infection sets a number of priorities. *Voluntary HIV Testing Centres* are available nationwide, with free access to counseling and diagnosis and adequate referral for treatment. From 2001 to 2010 150 250 HIV tests were performed with a 1,03 per cent of HIV positive cases. The *Project of Early Identification and Prevention of HIV/AIDS directed to Drug Users* was established in 2007, aimed at early detection of the infection amongst drug users from the public drug addiction treatment centres and early referral for treatment. Annually, about 10 000 rapid HIV tests have been performed.

227. Prevention of drug-related infectious diseases amongst problematic drug users is mainly ensured through the national syringe exchange programme established in 1993. From 2001 to 2010 about 28 million syringes were distributed. External evaluation of this programme in 2002 concluded that it had avoided 7 000 new HIV infections per each 10 000 IDU during its existence.

228. The Ministry of Health has defined a network of hospitals that effectively register cases of HIV/AIDS, infectious diseases, and drug abuse, ensuring support in terms of both counselling and the early detection of infection, including:

- The targeting of HIV/AIDS prevention campaigns at immigrants via civil society organizations and the media, with the objective of ensuring that people have access to the appropriate information.

- The promotion of measures that guarantee equal rights for people who live with HIV infection – particularly in the workplace, thanks to the Labour Platform Against AIDS (PLCS) – with the objective of reducing the stigma of HIV and discrimination.
- The development and implementation of preventive programmes targeted at drug users, prison inmates, and sex workers, in such a way as to ensure they have access to means of prevention, such as needle exchanges, for example.
- The development and implementation of National Programmes for the Prevention and Control of Non-Transmissible Diseases (PNPCDNTs).

229. Treatment for HIV, AIDS and Hepatitis B and C is included in the National Health Service and therefore available and free for those who need it.

230. The decreasing trend in the percentage of drug users in the total number of notifications of HIV/AIDS cases continues to be registered. Concerning HIV infection in the treatment setting, the percentages of HIV positive cases varied between 9 per cent and 25 per cent, showing a tendency to decrease in the last years. Hepatitis B positive cases remained stable in comparison to previous years and Hepatitis C registered smaller numbers in the last four years.

231. Preliminary results of the National Study on Mental Health, integrated into the Mental World Health Survey Initiative (coordinated by Harvard University and WHO) shows that Portugal, unlike neighboring countries with a strong cultural identity (Spain and Italy), has one of the highest annual prevalence rates of mental disorders: 22.9 per cent (compared to, respectively, 9.2 per cent and 8.9 per cent of those 2 countries).

232. The analysis of the mental health system in Portugal shows some positive aspects in its development, particularly after the publication of the current Mental Health Law and the implementation of the National Mental Health Plan 2007-2016. The law was drafted in accordance with international recommendations for the sector, particularly regarding respect for human rights, considering the model of intervention in community mental health, through internment in general hospitals, in conjunction with the outpatient primary care and psychosocial rehabilitation, developed mainly by NGOs through specific residential and socio-occupational structures, differentiated for adults and children/adolescents. Simultaneously the assistance and structural care conditions of the six public psychiatric hospitals have improved.

233. Despite this evolution, mental health services still suffer from shortcomings in terms of equity, accessibility and quality of care. Community mental health teams and programs involving families are still insufficient; mental health teams continue to rely on a small number of psychologists, nurses, social workers, occupational therapists and other non-medical professionals, and most resources continue to be concentrated in Lisbon, Oporto and Coimbra, although now the majority of general hospitals include specific services for adults and, more recently, for children and adolescents.

## **Article 13 – The right to education**

### **Questions 58-65 of the Committee’s reporting guidelines**

234. The duty of the State to ensure universal access to education and culture is established in the Portuguese Constitution. The general guidelines for education policies are

rooted in the Framework Law on Education (Law no. 46/86, of 14th October, republished by Law no. 49/2005, of 30 August).<sup>49</sup>

235. Primary and secondary education provision is ensured by the state, free of charge; higher education is not free of charge but state financial support is ensured to make it accessible to all students according to their capacities.

236. The guiding principles of curriculum organization and management in basic education aim at ensuring a common general background education to all citizens, by providing the acquisition of fundamental knowledge and skills that allow both the continuation of studies and full participation in society as free, conscientious and autonomous citizens.

237. School curricula include education on economic, social and cultural rights. Primary education study plans include “Civic education”; in higher secondary education such contents, also integrated in some curricular subjects, are mainly developed in a cross curricular perspective on a project-based learning model (see annex, table 63-Student/teaching staff per year, according to the level of education, by school year – public schools).

238. Compulsory education has been gradually enlarged in the last forty years. From early nineties up to 2009 it corresponded to the so called *ensino básico*, i.e., nine years of formal education starting for all children at the age of 6 (completed until 31 December) and corresponding to primary and lower secondary education. Currently, education is compulsory for all from 6 to 18, according to Law no. 85/2009, of 27 August;<sup>50</sup> this measure has been subject to a phasing in process of implementation, but it now applies to all children and young persons within that age limit.

239. Pre-school education is not compulsory but great investment has been made to enlarge the service provision network, constituted by state institutions and by private or non-profit ones. Pre-school education is universal and free of charge to all children aged 5; although at this level it is not compulsory, the rate of attendance is very high (around 90 per cent). Moreover, the network provision also ensures access for 3-5-year-old children.

240. In compulsory education, as far as State schools are concerned, there is neither enrolment, nor attendance, nor certification fees, in all levels of education (1-12 years).

241. Text books and other school materials are in general paid by the families. However, text books can be made available free of charge through support structures organized by schools and municipalities (e.g. borrowing system). Moreover, the social welfare system provides economic support to students from poorer households, both in basic and secondary education; that support may include costs with school books, meals and transportation, and exceptionally accommodation when students’ pathway choice involves moving to a school far from the residential area.

242. By Law 85/2009, 27 August, compulsory education has been enlarged until the age of 18 or until students complete secondary education (this can happen at the age of 17, if children start school at 5, completing 6 until 31 December).

243. Upper secondary education is accessible and free of charge to all students. It corresponds to a 3-year cycle (years 10-12) and is organized into different forms, namely: (i) scientific humanistic courses, of general academic nature, oriented to further studies; (ii) vocational courses, oriented to entry into active life by obtaining a professional

<sup>49</sup> [http://www.dges.mctes.pt/NR/rdonlyres/AE6762DF-1DBF-40C0-B194-E3FAA9516D79/1768/Lei49\\_2005.pdf](http://www.dges.mctes.pt/NR/rdonlyres/AE6762DF-1DBF-40C0-B194-E3FAA9516D79/1768/Lei49_2005.pdf).

<sup>50</sup> <http://www.sg.min-edu.pt/fotos/editor2/0563505636.pdf>



qualification, e.g. professional courses and specialized artistic courses (see annex, table 64-Net enrolment ratio, according to the school year, by age (%) higher secondary education).

244. For adults who have not completed this level of education at the regular age, there is also the modality of recurrent education, a second chance learning opportunity, available both for basic and secondary education.

245. Vocational courses are available in public and private vocational secondary schools, integrated in the public school network. These courses are for adolescents who have completed basic education (9th year of schooling) and want training that will prepare them to enter the labour market. The essential objectives of these courses are to respond to the needs of vocational training; and to qualify and diversify supply by creating a regionalized network of initial level 3 training leading to qualification.

246. Education and Training Courses provide a level 1, 2 or 3 qualification, or the equivalence of compulsory schooling levels (6th, 9th or 12th year), and are provided by the network of public, private and cooperative schools, vocational schools and centres directly managed and funded by the Institute for Employment and Vocational Training, or other accredited training bodies, in coordination with community bodies.

247. New legislation (Decree-Law n° 88/2006) was approved regulating the creation of post-secondary education programmes, i.e. Technological Specialization Courses, CETs) aimed at increasing the availability of technical and vocational education and widening access to such programs for new publics. This process has brought a new dynamism to post-secondary education in Portugal, in particular at polytechnic institutes. About 5000 students were enrolled in these programs every year since 2007/08 (compared to around 1000 students in 2005), which represents a significant opening up of higher education in Portugal.

248. New legislation was also approved providing greater flexibility in admissions and access to higher education, in particular for students aged over 23. Above 10 000 new students were enrolled in higher education through this type of mechanism since 2007/08 (up from around only 900 adults who started higher education in the 2005-06 academic year), representing another significant opening up of higher education in Portugal.

249. A new system of student loans with mutual guarantee underwritten by the State was launched in 2007/08.

250. **The National System for the Recognition, Validation and Certification of Competencies**<sup>51</sup> (RVVC) was implemented in 2001. This system is designed for adults who are 18 years of age or older and who have not completed the 1st, 2nd or 3rd cycle of basic education, or secondary education. The RVCC system allows for certification of academic and professional competences acquired throughout their lives in formal, non-formal and informal contexts.

251. **Adult Education and Training Courses** are addressed to: those (i) who are 18 or more; (ii) who wish to complete the 4th, 6th, 9th or 12th grade; (iii) who wish to obtain level 1, 2, 3 or 4 of qualification (National Qualifications Framework). They may grant dual certification (academic and vocational), or only an academic or vocational certification.

<sup>51</sup> Processes for the Recognition, Validation and Certification of Competencies are based on a portfolio of past learning, a repertoire of experiences recorded using a combination of methodologies (for example, balance of competences, biographic approach, practice and observation of specific activities), and are developed based on Reference Competence, a Key to Education and Training for adults, at basic and secondary level, and on Standards for Vocational Training, included in the National Qualifications Catalogue.

252. **Certified Modular Training Courses** are aimed at adults over 18, without suitable qualification for insertion or progression in the job market and, primarily, for those who did not conclude the basic or secondary education levels. Trainees under the age of 18 may be included in modular training courses as long as they are integrated in the job market or in educational centres belonging to the Justice Department.

253. **Recurrent education** as a second chance secondary education is an approach in adult education providing a second opportunity for education in the school context, based on an assessment model and programmes adapted to a modular organization. Such a modular system and the timetable (evening lessons) make it possible to balance study time with work. Second chance learning courses are for individuals who, having completed the 9th year of schooling or the equivalent, want to obtain secondary level education and, depending on the course, a level 3 vocational qualification.

254. In order to increase reading habits and improve the literacy of the population, the National Reading Plan was launched in 2006 and is being carried out along with the reinforcement of the School Libraries Network. The positive results of this measure are already noticeable: reading habits in schools and within the families have increased and the latest PISA (OECD Programme for International Student Assessment) study has revealed remarkable success in reading literacy, also with effects in other learning areas, since the capacity to read and interpret determines effective access to understanding and producing knowledge.

255. As far as education of minority children is concerned, an integration approach favouring multicultural classes is the official policy. Instruction in their native language is not common, given the fact that they are not geographically concentrated. In a school situated in a community with a high rate of African-born population, a project has been carried out consisting of teaching Creole to students of African origin and also to teachers in order to promote an intercultural approach. In order to improve equality of opportunities in the education system, measures have been adopted to support the integration of students whose mother language is not Portuguese. In the field of teaching Portuguese as a Second Language, relevant steps have been made, namely by providing teacher training, approving specific legislation and defining curriculum guidelines.

256. As for enrolment of non-native students in Portuguese schools, changes have been introduced in the system of equivalence of foreign certificates in order to simplify and speed up the process, as well as reinforce school autonomy.

257. Sociocultural mediators have frequently been appointed by local authorities or special employment programmes to work in schools with a high level of ethnic diversity. These mediators have played an important role in furthering family participation in school dynamics and intercultural dialogue.

258. The Portuguese legal system forbids discrimination based on sex; girls and boys attend the educational system in equal legal circumstances (see annex:

- Table 65– Percentage of women enrolled and in education and training activities, according to the level of education and the cycle of education
- Table 66– Feminisation rates of students enrolled and participating in education and training activities, according to the type of courses
- Table 67– Proportion of women graduates in the tertiary education, by field of education
- Table 68– Gross enrolment ratio, according to gender and level of education, by school year ( per cent)

259. In basic education a number of measures have been put in action to reduce the drop-out rates, i.e. to promote school success for all students. Under such measures “Supervised Study”(with 5 hours allocated per week) is mandatory as school provision in all schools, mainly targeted at students with learning difficulties in Portuguese and Mathematics in the first and second cycles of basic education (1-6 years of schooling). Other more specific measures have been introduced with more specific aims and target-publics, consisting either of providing alternative curricula, by diversifying mainstream education paths, or implementing different organizational models, namely alternative learning and teaching processes, or fostering partnerships. Some of these programmes are as follows:

- “*Programa Mais Sucesso Escolar*” – Programme More Success at School, to reduce failure rates and raise student achievement, by implementing different school organizational models through partnerships with universities;
- “*Ensino a Distância para a Itinerância*” - a distance learning project designed for students at the age of compulsory education whose parents must often move away due to their professional activity (e.g. circus workers/artists, marketers, etc);
- “*Percursos Curriculares Alternativos*” - alternative curriculum paths addressed to students under 15 with learning difficulties, repeated school failure, at risk of social exclusion and/or school dropout. This measure focuses on the development of essential skills, especially in Portuguese and Mathematics, and on the provision of artistic or vocational training for students within the age of regular mainstream education;
- “*Territórios Educativos de Intervenção Prioritária*” - Educational Territories of Priority Intervention, which resulted from several measures to support population in need, to improve the quality of student learning and prevent early school leaving, to provide educational guidance and counselling and qualified transition to active life, as well as to promote articulation among key stakeholders: schools, social partners and training institutions.

(see annex, table 69– Dropout and retention rate, according to the school year, by level of education (per cent) – Regular education), and table 70– Dropout and retention rate, according to the school year, by gender and level of education ( per cent) – Regular Education).

260. The Programme for International Student Assessment (PISA) is an international assessment launched by OECD in 2000 that measures 15-year-old students' reading, mathematics, and science literacy. A recent PISA study results have given evidence to the success of the investment made by the Portuguese system. From poor standards in the first studies, Portuguese students' performance improved significantly in the three domains assessed. Moreover, the study also proves that Portugal is one of the countries whose education system better compensates for socio-economic disparities, as it is one of the countries with the highest percentage of students from disadvantaged families who reach excellent levels of performance in reading.

261. According to available data, there is a non-significant difference in terms of sex regarding the attendance of Professional Courses (PC) and Vocational and Training Courses (VTC) (see annex, table 71– Attendance of Professional Courses and Vocational and Training Courses).

## Article 14 – Free and compulsory education for all

### Question 66 of the Committee’s reporting guidelines

262. Compulsory schooling is free and available for boys and girls, in Portugal, over the whole territory (see annex;

- Table 72– Gross enrolment ratio, according to the level of education, by school year ( per cent) – 2001/02 – 2010/11
- Table 73– Gross enrolment ratio, according to gender and level of education, by school year ( per cent)
- Table 74– Net enrolment ratio, according to the school year, by age (per cent) – Compulsory Education).

## Article 15 – Participation in the cultural life

### Questions 67-73 of the Committee’s reporting guidelines

263. Portugal created a network of cultural equipment such as public libraries, museums (there are actually 321 museums in the country), theatres, cultural centres and multiuse pavilions, of which the most advanced model at local collectivities’ level, is the network of public libraries (of which 186 were inaugurated), aimed at lending cultural works and encouraging reading. This model of cultural intervention is being reproduced at the secondary school level, with the network of school libraries.

264. Public archives are also important. There are 28 public archives in the territory plus the central one, Torre do Tombo, in Lisbon. The number of lectors in Torre do Tombo (realizing historic research, for example) is steadily growing. In 2008, there were 20 472 lectors registered in Torre do Tombo and in the District archives of Porto and Aveiro, the number of lectors has doubled from 2000 to 2008. In the same time period the National Network of Public Libraries made available more works, registering a growth of 144 per cent in available books.

265. Some initiatives are the reduction in 50 per cent of the price of the cinema tickets on Mondays; free access or at reduced prices to museums and exhibitions, in certain periods of the year, or for specific groups such as young people. From 2005 onwards, the number of free entrances in museums grew, surpassing the paid access (in 2008, 62 per cent of the visits were free).

266. The realization of initiatives such as the *Festa da Música* at the Belém Cultural Centre, the cultural itineraries (theatre exhibitions, arts expositions) supported by the State and the local collectivities are also integrated in the kind of measures aimed at making it affordable for citizens to access culture.

267. Although, since 2005, in what concerns the Budget for Culture, the importance of culture has been decreasing, in 2008, the visits to Monuments rose to 2.942.856, to museums, they rose to 1.218.718, and to palaces to 1.070.819. In the National Library (Biblioteca Nacional) the number of received lectors has diminished but the number of active lectors has increased. (42.453 registered lectors in 2008). The enlargement of the Public Network increased considerably the number of lectors and in 2008, there were 522.898 Public Libraries Network Cards among the public. This increase is also reflected in the number of works lent to the public, which tripled between 2000 and 2008.

268. There has been a great development in book editing, with a considerable increase in the offer of translated books, as well as the regular realization of book fairs all over the

country at reduced prices. The growth of internet sites, portals, and electronic works in the field of culture is also an aspect which favours the information and the dissemination of goods and cultural initiatives.

269. The question of students whose mother tongue is not Portuguese has been approached recurrently by the Ministry of Education. As an example, a survey performed in 2006 revealed that Portuguese schools enrol students coming from 120 countries, speaking 80 different languages at home. The Ministry of Education has put in place an Action Plan to help support the around 80.000 non-native students enrolled in Portuguese schools, in order to contribute to their full integration in the education system.

270. Most of the built equipment obey in their architectural project to accessibility rules, in order to allow the best access to people with disabilities. The Institute of Museums and Conservation, even has a program entitled “Accessibilities”, for museums, in particular the 28 museums under its supervision, where adaptation works have been done. In some of them there is information in Braille and this measure is being progressively adopted in private and municipal museums.

271. RTP, the public TV channel, also has translation in sign language in many informative programmes.

272. Intercultural Mediation in Public Services is a pilot project developed under the European Fund for the Integration of Third Countries, coordinated by the ACIDI to promote the integration of cultural diversity in public services, asserting the principle of interculturalism as a pillar of social cohesion. Under this project, 28 intercultural mediators were placed in 25 public services, in order to provide assistance to immigrants. The public services involved are mostly health care (13) and municipal services (7). Mediators were also placed in the following areas: public security police, social security, housing, employment, and education. An estimated 14,000 people benefited and it had an estimated total cost in 2009 of € 433,914.88.

273. In order to help Portuguese public schools deal with the increasing number of foreign students and greater social, cultural and ethnic diversity, the Entreculturas Board was created in 1991 within the Education Ministry. A wide range of activities were developed to sensitize schools and educational stakeholders regarding intercultural education as a means to facilitate the integration of migrant and ethnic minority children in schools and to ensure better and more equal opportunities.

274. The Roadmap for Arts Education was drafted based on the deliberations undertaken during and in the follow-up of the World Conference on Arts Education (6-9 March 2006, Lisbon, Portugal).

275. Depending on areas, Specialized Artistic Education (SAE) is structured on basic education (2nd. and 3rd. cycles) for Dance and Music, which should be taught at an early age and in sequence, and is completed in secondary education; or it begins and is completed at secondary level in the Visual and Audiovisual Arts and Theatre, where early learning is not essential. SAE courses may be administered by the network of public, private and cooperative schools.

276. Portugal was one of the first countries in Europe to ensure the broadband connection of all public primary and secondary schools. They were all linked in January 2006. From 2005 to 2008, the number of computers per primary and secondary school students decreased from 11 to 8 while the number of computer with Internet connection per primary and secondary school students also decreased from 16 to 9.

277. The number of “internet spaces” available across the country has been enlarged and the Network of Internet Spaces with more than 1.170 “Internet Spaces” providing free

internet access with computers and specialized staff across the country has been reorganized.

278. While the rights of the author are defended in the Code in the sense that he/she shall not be deprived of his/her intellectual property over the arts work, article 75 of the Code of Authors' Rights establishes exceptions to the absolute protection of the Authors' right allowing the art work to be known and its content to be disseminated.

279. These exceptions to the authors' rights are justified in order to bring about the balance between the interests of the creator and the interests of the public. Article 75 of the Author's rights and connected rights code reproduces, in an approximate way, the optional list of exceptions contained in article 5 of the EC Directive on the Author's right in the information society (Directive 2001/29/EC, dated 22 May). This list foresees a significant number of cases and exceptions to the Author's right, grounded on the protection of relevant social, cultural, educational and information interests which prevail over the exclusivity recognized to the rights' owners.

280. Law no 50/2004, of 24 August, approved the Portuguese Copyright Code.

281. There are no restrictions on the exercise of this freedom (art. 73 of the Constitution of the Portuguese Republic and legislation that establishes regulations on scientific institutions).

282. The Ministry of Science, Technology & Higher Education has in place various bilateral cooperation agreements with countries across the world in the fields of higher education, science and technology. These agreements contribute to the establishment of multinational teams working on joint research projects, thus facilitating intercultural dialogue and mutual learning.

283. In 2006, the Portuguese Government, through the Portuguese Science and Technology Foundation also initiated an innovative program of strategic international partnerships in science, technology and higher education by bringing together several Portuguese and leading American universities, including the Massachusetts Institute of Technology (MIT), Carnegie Mellon University, Harvard Medical School and the University of Texas at Austin. These partnerships facilitated the creation of broad and effective thematic networks aimed at advancing science, technology and higher education in Portugal to internationally competitive levels. The advanced training programmes with the leading American Universities are open to applications to Portuguese and foreign nationals.

284. New legislation governing the entry, stay and departure of highly skilled foreigners was approved in 2007 (Law 23/2007 of 4 July and Regulatory Decree n. 84/2007) establishing a more simplified regime for the admission of scientists, academics and other highly skilled foreigners who want to work in Portugal. In 2008, Portugal attracted 533 highly qualified foreigners from more than 40 countries, more than double than in 2007.

285. The systematic development and promotion of activities to foster science awareness, science education and the role of science in the daily life of citizens has been implemented primarily through the National Agency for Scientific and Technological Culture, "Ciência Viva". The activities of "Ciência Viva" are based on the following main instruments:

- **Promoting science and technology to the general population.** The "Science in the summer" program started in 1996 and operates annually throughout the country, involving different research units and other institutions. Visits and activities are directed to the general public in the areas of Astronomy, Biology and Geology. In 2008, this campaign involved more than 140 institutions (scientific institutions and higher education associations,

museums, municipalities and companies) and secured over 2500 dissemination activities throughout the country.

- **Supporting experimental learning at secondary schools.** Every year, more than 1 000 students from secondary education from all over the country experience short term internships in more than 80 research units and tertiary education institutions. In addition, more than 500 high schools have been involved in initiation research projects in the fields of ocean science, forestry and renewable energies.
- **National network of “Ciência Viva” Centers.** Launched in 1999, it consists of an integrated network of 20 science centers throughout the country.
- Finally, in 2007, the **Program Residency Arts and Science** started as a partnership between the Agency “Ciência Viva” and the Arts Directorate General of the Ministry of Culture. The Programme supports young artists in research laboratories, and contributes to widening the promotion of scientific culture to new audiences.

286. Portugal keeps celebrating cultural cooperation agreements with other countries, and promoting cultural demonstrations under such Agreements. On this particular matter special mention should be given to the development of cultural cooperation programs in the context of the Community of the Countries of Portuguese Language (CPLP), including diverse sectors and cultural initiatives.

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