

PORTUGAL

CCPR A/36/40 (1981)

291. The Committee considered the initial report (CCPR/C/6/Add.6) submitted by Portugal at its 293rd, 294th and 298th meetings on 15 and 17 July 1981 (CCPR/C/SR.293, 294 and 298).

292. The report was introduced by the representative of the State party. He referred to the provisions of the new Portuguese Constitution which entered into force on 25 April 1976 and, in particular, to those contained in Part 3 of the Constitution dealing with the fundamental rights and duties of citizens. He referred also to the political, legislative and administrative measures taken by the Parliament and Government of Portugal, after the coup d'état of 25 April 1974, introducing reforms in the various sectors of national life. He pointed out that Portugal was a party to several international instruments in the field of human rights and had accepted, in particular, the competence of the European Commission of Human Rights to receive petitions in accordance with article 25 of the European Convention for the Protection of Human Rights and Fundamental Freedoms.

293. Members of the Committee commended the Portuguese Government for its complete and informative report drafted in accordance with the Committee's guidelines. They observed, however, that although the report gave exhaustive information on the legal framework governing human rights, there was little information about the factual promotion and protection of human rights. Members sought more information on the factors and difficulties encountered by Portugal in implementing the Covenant taking into account especially the problems that the country had to face during the period which followed the coup d'état of April 1974. In this connection, information was requested on the reforms envisaged in the country in order to complete the democratization process, the revision of the 1976 Constitution undertaken by the Parliament, the number and nature of the political parties existing in Portugal and the process of nationalization of property. Information was also requested on the application of article 309 of the Constitution concerning the indictment and trial of officers and personnel of the secret police of the previous régime (PIDE/DGS) and article 310 concerning the screening of civil servants.

294. In respect to article 1 of the Covenant, tribute was paid to Portugal for its efforts in securing the independence of its former colonies. Clarification was, however, asked on the future position of the territory of Macao which, according to the Portuguese Constitution, was still under Portuguese administration. It was noted that Portugal, according to its Constitution, "recognizes the right of peoples to revolt against all forms of oppression ..." and the question was asked whether Portugal shared the view that peoples suffering from oppression or colonialism, such as the Palestinians and the people of Namibia, had the right to revolt, and what was the position of Portugal with regard to the ratification of the international instruments for the elimination of racism and colonialism.

295. In connection with article 2 of the Covenant, information was requested on how Portugal guarantees in its legislation the implementation on the provisions of the Covenant with regard, in particular, to non-discrimination. It was noted that article 2 of the Portuguese Constitution expressly laid down as its object the transition to socialism by creating the conditions for democratic exercise

of power by the working classes and it was asked what was meant by the term “working class” and whether this term did not imply discrimination between the “working classes” and other classes. It was noted also that certain provisions of the Constitution, such as those contained in its articles 12, 15 paragraph 2, 26, 31, 34, 44 and 46, referred to rights exclusively reserved to Portuguese citizens and clarification was requested on those constitutional provisions which made a distinction between citizens and others and which did not appear to be in conformity with the principles laid down in the Covenant. Moreover, the view was expressed that, since the report stated that various sovereign organs had been made responsible under the Constitution for safeguarding the true equality of citizens with regard to their economic, cultural and social status, it would be useful for the Committee to know what had been done to create economic conditions which would enable all people in Portugal, whether in urban or rural areas, to enjoy their rights under the Constitution. In this connection, it was observed that, though the report dealt with the protection of human rights, it did not refer specifically to the promotion of human rights. Attention was drawn in this respect to the national and local institutions, recommended in General Assembly resolution 33/46 for the promotion and protection of human rights and it was asked whether any such institutions had been set up in Portugal. With reference, in particular, to article 22 of the Constitution concerning the right of asylum, it was observed that grounds on which such a right could be granted in Portugal seemed to be somewhat restrictive. In addition, it was asked whether the law defining the status of political refugees had already been enacted in accordance with article 22, paragraph 2 of the Constitution and whether the right of asylum was considered in Portugal as a subjective right or an objective guarantee. Commenting on article 8 of the Constitution which provides that duly ratified international conventions are applicable in the municipal law of Portugal, members of the Committee observed that it was not clear from that provision what was the precise status of the Covenant within the legal system of the country, whether it took precedence over previously existing or subsequently enacted municipal laws and over the Constitution itself and if there were a conflict between the Covenant and the Constitution which one had priority. Information was also requested on whether the Covenant had been translated into Portuguese, suitably publicized and made known to those who wished to know what their rights were. As regards the administration of justice, members of the Committee asked whether the institution of the Ombudsman as well as the tribunals referred to in the report were already functioning, whether the Ombudsman had already been appointed and whether he was a judge or a member of the Parliament. It was asked also whether the draft-law concerning the organization of administrative courts had been adopted and whether the members of the Council of the Revolution were technically qualified to examine the constitutionality of laws. With reference to article 269 of the Constitution concerning the right of access to the courts in order to question the legality of any act of the public administrative authorities and it was asked whether the courts referred to were administrative courts and if such courts had not yet been established, whether the ordinary courts could exercise jurisdiction under article 269 in the meantime.

296. In relation to article 3 of the Covenant, members of the Committee wished to know when the draft legislation designed to prevent discrimination against women in work and employment is likely to come into force, what was the proportion of women active in the public sector professions, and the private sector, whether consideration was being given to granting to women the right to decide freely whether to have a child or not and how far the resolutions on the status of women, adopted by the General Assembly in 1975, were reflected in the daily life of the country.

297. With regard to article 4 of the Covenant, members of the Committee noted that article 19 of the Portuguese Constitution concerning suspension of rights in case of a state of siege or emergency and the report itself did not state clearly which rights could be derogated from and to what extent.

298. In connection with article 5 of the Covenant, it was asked whether the Covenant was directly applicable in Portugal as the European Convention for the Protection of Human Rights and Fundamental Freedoms. It was also noted that Portugal recognized the competence of the European Court and it was asked whether problems might not arise as a result of cases relating to human rights being laid before two different jurisdictions.

299. Regarding article 6 of the Covenant, clarification was asked on whether according to the Constitution, the death penalty in Portugal had been abolished or whether, if it existed in principle, it has ceased to apply and, if so, what were the consequences of that step, in particular, on the crime rate. Some information was also requested on the rules prohibiting drug abuse.

300. As regards article 7 of the Covenant, information was requested on practical measures taken in Portugal to give effect to the prohibition of torture, on whether complaints of torture had been made during the last two years, in particular, by political activists, whether there was any investigation in those complaints and what was the result, if any. In this connection, clarification was requested on the language used in article 306 of the Penal Code, which forbade the ill-treatment of prisoners or the use of insulting language or violence against them except in the event of resistance, escape or attempted escape. With regard, in particular, to the question of medical transplants, it was asked what definition of the moment of death had been adopted in the Portuguese regulations dealing with that question.

301. With reference to article 9 of the Covenant, some members of the Committee wished to know which were the guarantees available against arbitrary detention and, in particular, what safeguards were provided under the law to ensure that persons were not wrongfully detained in mental institutions and that those who required to be detained were treated with humanity. Other members wished to know whether the principle of habeas corpus had become a remedy open to all, and not restricted to citizens, and, considering that recourse to the remedy being probably the exception rather than the rule, what were the conditions governing detention in the normal case.

302. In connection with article 10 of the Covenant, information was requested on the supervision of prisons and the availability of a complaints mechanism for prisoners and on whether any system of independent prison visitors to hear complaints existed.

303. In connection with article 12 of the Covenant, one member wished to know what were the conditions to be fulfilled by immigrants into Portugal.

304. With regard to article 13 of the Covenant, information was requested on procedural safeguards available to aliens, lawfully present in Portugal, who might be expelled therefrom and on the application of the legislation concerning extradition especially in the light of the provisions of the International Convention on the Suppression and Punishment of the Crime of Apartheid dealing with extradition for crime of apartheid.

305. In connection with article 14 of the Covenant, it was asked whether the Special Penal Code applicable to the armed forces was still in force and, in that case, whether it created inequality among citizens, whether hearsay evidence was admissible in criminal proceedings in as much as article 14, paragraph 3 (e) required that an accused party be given the right to cross examine witnesses against him, how long was the delay between the determination of the charge and the trial and between trials and appeals, and whether the court of appeal could reverse a finding of fact made by an inferior court. Furthermore, information was requested on whether there had been any prosecution recently against political activists for “moral complicity”, what were the elements of that offence and whether it was a mere crime of intent or it should be accompanied by some overt act of participation, whether consideration was being given in Portugal to applying the laws of amnesty in the case of political activists whose convictions of common law offences were based on evidence which was perhaps technically receivable but factually doubtful, and whether legislation against terrorism had recently been adopted in the country and what were its provisions. In addition, it was asked whether judges were irremovable and what conditions, in addition to legal requirements, had to be satisfied by judges, whether there were in Portugal special financial, social and juvenile courts and whether any changes had been made in the judiciary since 1974 or whether the same judges who were in office before 1974 were still responsible for the implementation of human rights legislation.

306. In connection with article 16 of the Covenant, clarification was requested on the text of article 66 of the Portuguese Civil Code, according to which recognition as a person before the law was acquired at the time of a complete and live birth.

307. In connection with article 17 of the Covenant, reference was made to article 33 of the Portuguese Constitution concerning the right to identity, a good name and privacy, and it was asked how the provisions of that article applied to members of the secret police of the régime existing in Portugal before April 1974 especially to those who committed criminal acts in the African territories which were under Portuguese administration at that time. With reference to the safeguards against the wrongful use of information concerning persons and families contained in article 33, paragraph 2 of the Constitution, it was asked whether victims could ask for compensation for purely moral damages. With reference to article 34 of the Constitution providing guarantees for the inviolability of home and correspondence more specific details were asked as to the particular cases referred to in paragraph 4 of that article which allowed investigators to interfere with correspondence.

308. Regarding article 18 of the Covenant, one member wished to know whether the Portuguese Government had recognized and ratified various international conventions concerning copyright.

309. With regard to article 19 of the Covenant, clarification was requested on the constitutional provisions protecting the press against economic power and prohibiting private ownership of television in Portugal. It was asked, in particular, whether there was any regulation on that matter and whether concrete measures had been taken to ensure that the press was not owned by wealthy persons and used for the furtherance of their interests. It was also asked what ordinary laws had been established to implement the constitutional provision which provided that the State should promote the democratization of culture and, in particular, what were the practical means securing the implementation of article 76 of the Constitution which provided that admission to the university should be based on the needs of the country in qualified staff and that the admission of workers and young people from the working classes should be encouraged.

310. In respect to article 20 of the Covenant, detailed information was requested on the extent to which the Portuguese authorities prohibited war propaganda and incitement to racial hatred or discrimination since the Portuguese Penal Code had not yet been completed. It was also asked whether the Portuguese Government recognized that the right to freedom of expression covered by article 19 of the Covenant could be limited, for example, by the prohibition of war propaganda provided for by article 20 of the Covenant and the prohibition against racism or discrimination and what measures had been taken in Portugal to limit freedom of expression when used to that end. Moreover, it was asked how effectively crimes against humanity had been prosecuted and what had been done in practice to eradicate and prevent threats to human rights.

311. As regards article 21 of the Covenant, one member wished to know whether foreign workers could form trade unions or associations and had the right to meet peacefully. Another member observed that there seemed to be a contradiction between the Portuguese legal provisions providing for the recognition of the right of all citizens to demonstrate and those establishing that counter-demonstrations would be liable to penalties.

312. In relation to article 22 of the Covenant, reference was made to the abrogation of Decree-Law No. 215-B/1975 and it was asked what were the defects which had been found in that Decree-Law, in particular, whether a considerably high membership was still required for the establishment of workers' and employers' organizations, whether the law still required that a particular region should have only one union for a particular category or class of workers and to what extent these special exigencies were in conformity with the freedom of association which article 22 of the Covenant recognized. Questions were also asked concerning the political role of trade unions in the country and the meaning of the principles of "democratic management" governing trade unions. It was also asked whether ratification of ILO Conventions 98, 105 and 107 had raised problems for the Portuguese Government and what had been done to resolve them. With reference to article 46 of the Constitution prohibiting organizations which adopted fascist ideology, it was asked what were the criteria used to define fascism in that provision.

313. Noting that the report stated that political parties must observe the principles relating to direct association and single membership, members sought clarification on those terms. Information was also requested on whether there was any appeal or other remedy against a judicial decision concerning the dissolution of political parties.

314. In respect to article 23 of the Covenant, members of the Committee asked what was the marriageable age in Portugal, which was the matrimonial system in the country, whether there was one obligatory system or whether spouses had a choice as to a régime of community of property or separation of property or some other régime and how the spouses' right to pursue an activity without the consent of the other was reconciled with their duties of co-operation, whether legislation ensured equality between children born out of wedlock and legitimate children and whether the study entitled "Affiliation in the reform of the Portuguese Civil Code of 25 November 1977", published by the Ministry of Justice, was merely a treatise or had been transformed into law. With respect to divorce, it was asked whether the criteria were the same for both men and women and what was the practical role of judges in divorce cases and whether judges could intervene to reconcile spouses. One member observed that Portugal's attitude to divorce seemed to be quite restrictive.

315. In connection with article 24 of the Covenant, information was requested on measures adopted in Portugal to give effect to the provisions of that article and in particular to enable parents to ensure the protection of their children and to enable children to enjoy the rights to which minors were entitled. It was also asked whether adoption took place in Portugal by contract or by judicial decision, in what way the child's interests were taken into account, whether there were several types of adoption in the country and what were the consequences with respect to the child's nationality. In this connection, it was observed that the provisions governing Portuguese nationality seemed to discriminate on the basis of sex, since nationality was acquired only through the father except whether the father was unknown, in which case nationality could be obtained through the mother.

316. In connection with article 25 of the Covenant further information was requested on the implementation of all aspects of the provisions of that article. Reference was made to article 48 of the Portuguese Constitution and it was asked whether the system of direct democracy, through social organizations, workers', women's professionals' groups or other groups existed in Portugal and whether there were administrative provisions or directives implementing the provision concerning the right of citizens to objective information about the activities of the State and on the management of public affairs. Clarification was also requested on article 125 of the Constitution which provided that only those who were "Portuguese by origin" had the right to vote.

317. Replying to questions raised by members of the Committee, the representative of Portugal gave information on all the political parties existing in his country including those not represented in Parliament and, in connection with article 1 of the Covenant, he explained that the status of the territory of Macao was governed by Law No. 1/76 of 17 February 1976 and was maintained in force by article 306 of the Constitution. He also stated that Portugal strongly condemned the system of apartheid, but it had not yet ratified the International Convention on the Suppression and Punishment of the Crime of Apartheid mainly because of the Convention raised several problems of a legal nature; however, Portugal's accession to the International Convention on the Elimination of Racial Discrimination was in progress. As regards the right of peoples to revolt which was recognized in article 7 (3) of the Portuguese Constitution, this was a right which was itself subject to the principle of non-interference in the domestic affairs of other States. In this connection, Portugal recognized the legitimate rights of the Palestinian people including its right freely to determine its political future and supported the Namibian people's right to self-determination and independence, recognizing SWAPO as its legitimate representative.

318. With regard to article 2 of the Covenant, the representative explained that the concept of "working classes" should not be understood in a limited sense but in the broad sense referred to in article 51 of the Constitution; work was as much a duty for all the Portuguese people and that, though the Constitution frequently referred to "citizens", article 15 nevertheless provided that foreigners residing in Portugal enjoyed the same rights as Portuguese citizens, except for political rights. He gave information on organizations or associations in Portugal concerned with the defence of human rights. With regard to the right of asylum, he stated that it was granted to foreigners who had been subjected to persecution as a result of their political activities or involvement towards social and national freedom, peace between peoples and the defence of human rights. The right of asylum in Portugal was guaranteed by objective safeguards. Proceedings in connection with an application for asylum were governed by the provisions of the Universal Declaration of Human Rights, the Geneva Convention of 25 January 1951 and its Additional Protocol of 31 January 1967.

With regard to the status of the Covenant within the legal system of Portugal, opinion was divided in Portugal as to whether the Covenant was of equal or greater validity than national law, subordinate only to the Constitution itself, but the possibility of conflict with the Constitution was highly unlikely. The representative also provided information on the publication of the Covenant in his country and stated that the judicial system provided for by the Constitution was fully functional. In addition to the courts, Portuguese law laid down a system of preventive proceedings exercised by the Attorney General and the Ombudsman who, in accordance with article 24 of the Constitution, was selected by the Assembly of the Republic and frequently made legal determinations independently of the courts. Administrative courts were separate from the ordinary courts and like the fiscal courts, they were being reorganized with a view to making them more efficient. Special courts for the armed forces had been reorganized and tried only essentially military and related crimes. The system of control of constitutionality was preventive as well as a posteriori: the latter was provided by the Council of the Revolution upon the advice of the Constitutional Commission and in a broad way the courts. However the majority of the parties in the Assembly had agreed to abolish the Council of the Revolution and distribute its functions among the President of the Republic, the Assembly and a Constitutional Court. As regards the implementation of article 269 of the Constitution, a draft administrative procedure code of extremely wide scope had been prepared to govern the right of access to information.

319. In connection with article 3 of the Covenant, the representative stated that Decree-Law No. 485/77 had set up the Commission on Female Status, the terms of reference of which were to promote and protect women's rights and to eliminate discrimination. He also gave detailed information on the participation of women in public affairs and the professions in Portugal and stated that the public was very interested in the question of the liberalization of abortion and a bill on this question was to be submitted to the Assembly of the Republic.

320. In respect of article 4 of the Covenant, which included a more extensive list of rights and freedoms which might not be restricted in time of emergency than article 19 of the Portuguese Constitution, the representative stated that the Constitution did not prohibit the adoption under national law of a more extensive system of non-derogable rights and that the National Defence Bill, which had not yet been passed, merely incorporated the provisions of article 19 of the Constitution in regard to the restriction of rights, freedoms and safeguards.

321. In connection with article 5 of the Covenant, he stated that the principle of the automatic acceptance of the Covenant in national law was enshrined in the Constitution.

322. Replying to questions raised under article 6 of the Covenant, he explained that capital punishment had been abolished in Portugal in 1867. He further gave information on the crime rate in the country and legislation for the prevention and control of drug addiction.

323. In connection with article 7 of the Covenant, he stated that Portuguese law was particularly strict in regard to torture under penal and prison conditions. If a complaint was submitted to the relevant committee in respect of police practices, an investigation would be held and the case brought before the courts. He regretted being unable to give information on complaints made by political activists as these were being referred to the courts and were sub judice. The use of force was permitted to overcome resistance to arrest or to prevent an attempted escape, but Decree-Law

No. 265/79 laid down strict rules for the exercise of physical coercion, requiring the submission of a written report whenever such measures had had to be employed. As regards organ transplant, Decree-Law No. 553/76 stipulated that death had to be certified by two independent medical practitioners of at least five years standing practice. The moment of death was determined on the basis of normal scientific criteria.

324. With regard to article 9 of the Covenant, he explained that compulsory detention of persons of unsound mind was only permitted as a safety measure on the authority of a court and where the person concerned had committed an offence carrying a sentence of more than six months imprisonment or had been declared not to be responsible for his actions. Furthermore, the “right to popular action” under article 49 of the Constitution was applicable in cases of habeas corpus and article 306 of the Penal Code specified that a petition of habeas corpus could be formulated by any citizen in possession of his political rights.

325. As regards questions raised under article 10 of the Covenant, the representative stated that, under the Portuguese judicial system, the magistrate responsible for the implementation of punishment was also required to visit prison establishments at least once monthly and hear prisoners’ complaints. Decree-Law No. 265/79 also made provision for special visits by prisoners’ lawyers and prisoners were informed on the procedure for submission of complaints in accordance with article 25 of the European Convention on Human Rights.

326. In relation to article 13 of the Covenant, he pointed out that under Decree-Law No. 582/76 of 1976 the expulsion of foreigners was a matter to be decided by the courts and that the person in question had a right of appeal. A bill has been prepared in order to amend that Decree-Law and to strengthen foreigners’ guarantees against expulsion.

327. Turning to the questions raised under article 14 of the Covenant, he stated that the Portuguese Penal Code laid down precise limits within which the proceedings had to be completed and gave detailed information on the admissible periods of preventive detention. A case of habeas corpus could be entered in the event of failure by the authorities to comply with the relevant regulations. The imposition of a greater punishment by a higher court on appeal was not permitted unless the facts were found to be different from those presented to the lower court or the public prosecutor claimed that an aggravated offence had been committed, but courts of the second instance were certainly empowered to reverse the findings of fact of lower courts. The representative also explained that the definition of political offences was contained in article 39 of the Code of Criminal Procedure and provided information on a recent case of political activities convicted of common law offences where the Portuguese Courts had examined the provisions of the law of amnesty and those of the Penal Code and had found that the benefit of amnesty was not applicable in the case. As regards legislation on terrorism, he recalled that Portugal had signed the European Convention on the Suppression of Terrorism and that the Assembly of the Republic had adopted a law amending a number of articles of the Penal Code, mainly to impose heavier penalties for crimes in certain cases. He also pointed out that the courts in Portugal were totally independent of the Executive as regards both their organization and their operation, that there was no possibility in Portugal of political persecution and that no member of the former secret police nor civil servants who had been prosecuted for their participation in the former régime were in detention. Judges in Portugal were irremovable by law and recruited by competitive examination, and besides an age requirement of

25 years, the law did not set more requirements. There were in Portugal fiscal courts and juvenile courts; questions of social security were handled by special courts or by courts of general competence. The core of judges had been increased in the country by 70 per cent. Those judges accused of disciplinary responsibility for acts practiced under the previous régime had been the subject of judicial action, but nearly all were still in judicial service since it had not been proved that there were determining factors in favour of exclusionary measures.

328. Replying to the question raised under article 16 of the Covenant, the representative stated that Portuguese legal literature did not consider the viability factor necessary for the recognition of an individual as a person before the law and regarded the separation of the foetus from the body of the mother as sufficient and took breathing as the decisive indication of life.

329. With regard to article 17 of the Covenant, he referred to legislation in force in Portugal to protect privacy and stated that very strict rules had been enacted to regulated the question of data treatment and that the general principle of compensation for moral injury was recognized by the law.

330. In connection with article 18 of the Covenant, he provided information on international copyright conventions subscribed by Portugal and on the literacy rate in the country with regard to various age groups.

331. With reference to article 19 of the Covenant, he stated that there were in Portugal rules governing access by everyone to television and that there were information councils to guarantee ideological pluralism. He also referred to legal provisions relating to privately owned mass media and explained that the law itself specified the objective that the press performed a public function independent of the political and economic sectors and provided for measures to prevent the concentration of newspapers and newsagencies.

332. As regards article 21 of the Covenant, he pointed out that freedom of expression and association included the right of counter-manifestation provided that the exercise of manifestation was not affected.

333. Turning to the question raised under article 22 of the Covenant, the representative explained that Legislative Decree No. 215-B/1975 had been amended to repeal provisions which prevented trade-union pluralism. As regards the principles of “democratic management” which should govern trade union associations, he explained that that provision referred to matters relating to the organization and operation of trade unions. He also provided detailed information on ILO Conventions to which Portugal was a party, on their application in the country and on a complaint accusing the Portuguese Government of alleged violations of ILO Convention No. 151 on Labour Relations (Public Service) (1978). He also referred to the significance and scope which is given to the term “fascist régime” and pointed out that Law No. 64/78 of 6 October 1978 prohibited organizations advocating fascist ideologies and prescribed terms of imprisonment for their organizers, leaders and participants. Furthermore, he stated that the expression “direct association” was somewhat imprecise and it probably referred to the obligation to register with a party and not with a political organization of an intermediate or higher level. The expression “single application” meant that no one was allowed to be a member of more than one political party simultaneously.

334. In connection with article 23 of the Covenant, the representative explained that the minimum age for marriage in his country was 16 years. The system of separation of property for husband and wife was mandatory under Portuguese law in two situations: where the marriage was concluded without the publication of bans and where the spouses were over 60 years of age at the time of marriage. In all other cases, the future spouses had, at the time of marriage, the choice from among several possible property systems. Moreover, the principle of equality of the spouses implied their freedom of choice of occupation and the law on matrimonial matters was based on the principle that the spouses were complementary to each other. The list of grounds for divorce was the same for men and for women and in the case of application by common consent, two attempts at conciliation were conducted by the judge; one attempt only was conducted in the case of a contested divorce.

335. With regard to article 24 of the Covenant, he stated that there were regulations governing family planning. Adoption was recognized in Portuguese law and was effected in pursuance of a judicial decision. Full adoption conferred the status of a child integrated in the adopter's family. In restricted adoption, the adopted child retained all the rights and obligations originating from his natural family.

336. Finally, the representative of Portugal informed the Committee that his Government had submitted to the Assembly, in February 1981, a request for ratification of the Optional Protocol to the Covenant.

CCPR A/45/40 (1990)

120. The Committee considered the second periodic report of Portugal (CCPR/C/42/Add.1) at its 934th to 937th meetings, held on 31 October and 1 November 1989 (CCPR/C/SR.934-SR.937).

121. The report was introduced by the representative of the State party, who emphasized that Portugal was making continuous efforts to bring its own domestic law into line with its new international commitments, notably those resulting from its accession to the Covenant. A number of the provisions of the Constitution covering fundamental rights had therefore been revised, particularly those relating to the status of foreigners, access to the courts, reform of the judiciary, criminal law and criminal procedure. In addition, the Civil and Criminal Codes had also been revised.

122. The process of preparing the report had been useful as a means of assessing progress achieved in implementing the Covenant. The Ministry of Justice and the Ministry of Foreign Affairs had cooperated in collecting information on matters related to human rights and in following up action taken.

Constitutional and legal framework within which the Covenant is implemented

123. With regard to that issue, members of the Committee wished to know whether the Public Prosecutor's Department had lodged any appeals before the Constitutional Court pursuant to article 280, paragraph 2, of the Constitution and, if so, with what results; whether there had been any court decisions as to the standing of rules and principles of international law relative to ordinary domestic law and to constitutional provisions; what was meant by the term "right of petition and popular action" in article 52 of the Constitution; and whether the new Code of Penal Procedure had entered into force. They also wished to receive information concerning factors and difficulties, if any, affecting the implementation of the Covenant; activities relating to a greater public awareness of the provisions of the Covenant and the Optional Protocol; and the powers independence, functions and activities of the "Provedor de Justicia" (Ombudsman) in so far as the implementation of the Covenant was concerned.

124. In view of the reversion of Macao to China in 1999, members expressed special interest with regard to the legal framework for the guarantee of human rights in the territory. They wished to know, in particular, whether the Covenant was applicable in Macao and the archipelagos of the Azores and Madeira; whether the arrangements between Portugal and China included a provision for the maintenance of the civil and political rights of the population of Macao; and whether the Covenant would continue to be applicable within the territory after 1999.

125. Referring to the legal status of the Covenant within internal law, members wished to know what mechanisms were employed in Portugal to harmonize the Covenant and domestic law; whether the Covenant could directly be invoked by individuals before the courts; whether the right of petition and popular action, provided for in article 52 of the Constitution, related to any of the rights covered by the Covenant; and whether the Constitutional Court was empowered to decide on matters concerning Portugal's international obligations. Members also wished to receive detailed

information regarding a recently established commission on human rights; the meaning of the concept of “active unconstitutionality”, as provided for in article 278 of the Constitution; the distinction between the Supreme Court of Justice and the Constitutional Court; the scope and contents of the right to legal information enshrined in article 20 of the Covenant; and requested clarification of an individual’s right, provided for under article 21 of the Constitution, “to resist any order which infringed his rights, freedoms or safeguards and to repel by force any form of aggression when recourse to public authority was impossible”.

126. In his reply to the questions raised by members of the Committee concerning Macao, the representative of the State party pointed out that although the Covenant as such was not applicable there some Portuguese jurists held that since the rights provided for in the Covenant belonged to everyone under Portuguese administration, it should be considered as being applicable. In practice, the residents of Macao enjoyed exactly the same degree of legal protection as other Portuguese citizens because the country’s Constitution and legislation regarding basic rights were directly applicable. In a joint declaration by the governments of China and Portugal, China had stated that among the principles to be applied to the territory after its reversion to China in 1999 would be respect for existing rights and freedoms, such as freedom of expression, freedom of association, the right to strike and inviolability of the domicile. Formally, however, the Covenant would not be applicable in the territory of Macao after 1999. On the other hand, the Covenant was applicable in the archipelago of the Azores and Madeira, because they were an integral part of the State of Portugal.

127. Referring to activities relating to the promotion of greater public awareness of human rights issues, the representative said that in 1988, the year of the fortieth anniversary of the Universal Declaration of Human Rights, various briefings, seminars and symposia relating to human rights had been organized; a centre for human rights had been set up within the Ministry of Justice for receiving, processing and distributing copies of the most important texts adopted by international organizations in that field; a collection of international human rights instruments had been published in Portuguese and widely distributed in schools; information on international human rights instruments had been disseminated to the courts; and a commission had been established to consider how best to introduce a multi-disciplinary approach to the teaching of human rights and how to increase awareness of such rights on the part of both teachers and students. Courses at the Portuguese College of Magistrates included a study of international human rights instruments, and every police officer carried a copy of a code of conduct, in which his duty was defined as acting in defence of democratic legality and of the fundamental rights of the citizen. The training of police officers included a study of regional and global systems for the protection of human rights. The text of international instruments covering such areas as medical ethics and the treatment of prisoners had been distributed to prison officers.

128. Responding to questions relating to the Ombudsman, the representative explained that the Ombudsman was an independent public officer, appointed by the Assembly of the Republic, who received complaints by individuals regarding acts or omissions on the part of Government officials and made recommendations as to how acts of injustice might be remedied. He could also draw attention to imperfections in legislation; disseminate public information on fundamental rights and freedoms; make inspections of any sector of the administration; and carry out investigations, notably of alleged acts of torture committed by police or prison officers. The Ombudsman submitted an

annual report on his activities to the Assembly of the Republic which included statistics on the number and nature of complaints received. There was no national commission on human rights in Portugal but an informal body, composed of representatives of the Ministry of Justice and the Ministry of Foreign Affairs, followed all activities designed to disseminate, promote and implement human rights in the country and prepared reports for submission to the competent international authorities.

129. Regarding the relationship of international to domestic law, he noted that according to the Constitutional Court, the rules of international law set forth in instruments to which Portugal was a party took precedence over domestic law but not the Constitution. Theoretically, in case of a conflict between the provisions of the Covenant and those of the Constitution, the constitutional standards relating to the determination of unconstitutionality would prevail, but such a conflict was most unlikely since the Constitution had to be interpreted in the light of the Universal Declaration of Human Rights as reflected in the text of the Covenant. Article 280 of the Constitution was designed to ensure that the Constitutional Court should act as an effective court of last resort in cases where the courts had refused to apply legal provisions contained in international conventions or in national laws or decrees. Once the same legal provision had been held to be unconstitutional or illegal in three specific cases, the Constitutional Court was entitled to declare that provision unconstitutional. Although the Constitutional Court could overrule the Supreme Court in a given case, the latter did not have to conform to such opinions in other cases except where a provision had been ruled illegal on general grounds.

130. Finally, the representative explained that the right of petition was a means of promoting the participation of citizens in political affairs. Petitions could be individual or collective and addressed to the sovereign bodies or to any public authority. The right of popular action involved the right of all citizens to have recourse to the courts whether or not they had a personal interest in a case. The new Code of Penal Procedure had entered into force on 1 January 1988. The right provided in article 21 of the Constitution was to be exercised only in extreme situations and resisting an order in a normal situation would be considered illegal.

Self-determination

131. With reference to that issue, members of the Committee wished to know the position of Portugal regarding the right to self-determination of the peoples of Namibia and Palestine and whether Portugal had taken any measures to prevent public and private support for the apartheid régime of South Africa. Additionally, further information was sought regarding the legal framework within which human rights were guaranteed in East Timor.

132. In his reply, the representative of the State party said that since 25 April 1974, Portugal had scrupulously respected the right of peoples to self-determination and had shown its commitment to this right by granting independence to the peoples of Angola, Mozambique, Cape Verde, Guinea-Bissau and Sao Tome and Principe. Portugal recognized the right to self-determination of the Palestinian people and the right of all States in the region, including Israel, to exist within secure and recognized boundaries; had long supported the right to self-determination of the people of Namibia and had welcomed the agreement between the parties concerned which had allowed the ongoing process of self-determination to take place; and had also constantly and unequivocally condemned

the apartheid régime. The application of indiscriminate sanctions against South Africa was considered contrary to the interests of the majority of the population of South Africa and neighbouring countries whose economies were closely linked with it but Portugal supported and applied selective sanctions such as those decided upon by the European Community.

133. East Timor remained on the United Nations list of Non-Self-Governing Territories, Portugal being recognized as the administrating power because of its former responsibilities as the colonial power. Portugal had declared the Covenant to be applicable to East Timor but was unfortunately not in a position to ensure that it was applied and effectively respected since it had no access to the Territory, which was under occupation. Portugal was continuing to co-operate in the Secretary-General's efforts to find a just, comprehensive and internationally acceptable solution to the problem.

State of emergency

134. In connection with that issue, members of the Committee asked how the role accorded to military courts during a state of emergency could be reconciled with the retention of a person's free right of access to the courts and whether there could be derogations in times of emergency from the right to habeas corpus and the provisions of article 8 of the Covenant.

135. In his reply, the representative of the State party said that there had been no case of a declaration of a state of siege or state of emergency in Portugal since the adoption of the Constitution. The distinction between the two situations related to the differences in the degree of seriousness of events justifying their proclamation. The scope of suspension of rights was less broad under the state of emergency. Only in the event of a proclamation of a state of siege were military tribunals given competence comprising the investigation and trial of persons infringing the state of siege and of persons committing offences against the life, physical integrity and freedom of individuals, and against the right to information, security of communication, property and public order. The right of access to the courts could however, in no way be restricted as a result of the expanded competence of the military courts and the ordinary law courts continued fully to exercise their competence and functions. In particular, they were required during a state of emergency to ensure respect for the constitutional and legal standards established under article 23, paragraph 112 of Act No. 46/84. Accordingly, the right to habeas corpus could not be suspended under any circumstances.

Non-discrimination and equality of the sexes

136. With regard to that issue, members of the Committee wished to receive information concerning women's participation in the political, economic, social and cultural life of the country and the proportion of the sexes in schools, universities, the civil service, the Government and Parliament; measures being introduced by the Commission on the Status of Women to combat discrimination; and concerning follow-up measures adopted, if any, after the issuance of the conclusions of the Parliamentary Commission on the Status of Woman. Members also requested clarification of the reference in article 15 (2) of the Constitution to rights "restricted exclusively to Portuguese citizens under the Constitution and by law" and of the decision of the Constitutional Court declaring unconstitutional Decree No. 2/76 of the General Assembly in Madeira, which stipulated that

preference should be given in the assignment of teachers to those originating from or residing in the region.

137. In his reply, the representative of the State party noted that a woman had been appointed Prime Minister for the first time in 1979, another had become Civil Governor in 1980 and yet another had recently been appointed as a judge of the Constitutional Court; that 19 of 250 deputies to the Assembly of the Republic, elected in 1987, 3 out of a total of 24 representatives elected to the European Parliament, 4 out of the 56 members of the present Government and 168 out of 1,199 judges were women. Women accounted for more than 50 per cent of attendance in schools, including at the secondary and higher levels.

138. The Governmental Commission on the Status of Women carried out a number of important activities for the promotion of women, including the establishment of a specialized documentation centre; the publication of a number of studies, booklets and information documents; the organization of seminars and exhibitions and the preparation of films and audio-visual material. It had also co-operated in the formulation of important legal texts on such matters as maternity protection and the equality of women in labour and employment. The Commission had also been active in promoting revision of primary, preparatory and secondary curricula designed to promote equality of the sexes, in improving teacher training and in helping women to gain economic independence through participation in co-operatives.

139. The Commission on Equality in Employment on which the Governmental Commission on the Status of Women, the Government, trade union organizations and employers were represented, considered complaints of inequality. Its opinions were published and broadly disseminated. It also promoted the provision of financial support to enterprises for the introduction of changes that would facilitate the employment of women and the establishment of suitable working conditions for them and carried out studies and research on women's employment. The Parliamentary Commission on the Status of Women was established in 1982, within the Assembly of the Republic, and was required to take decisions on texts submitted to it with respect to the status of women.

140. Certain Constitutional provisions, such as those relating to participation in public life, the right of petition and guarantees of political participation, related only to citizens. However, equality between citizens and aliens was a long-standing tradition in Portugal and that tradition had just been strengthened by the addition to article 15 of the Constitution of a provision granting aliens resident in Portuguese territory the right to vote in local elections. Decree No. 2/76 of the General Assembly in Madeira had been held unconstitutional by virtue of articles 13 and 230 of the Constitution which prohibited discrimination on grounds of origin, and of regional origin, respectively.

Right to life

141. With reference to that issue, members of the Committee asked whether the adoption of Decree Law No. 430/83, concerning trafficking and use of narcotic and psychotropic substances, had led to any measurable progress to date; whether any consideration was being given to expanding the scope of Decree Law No. 324/85 so as to provide compensation to all victims of terrorist acts and not merely to public servants and their families; and whether there had been any violations of Decree Laws Nos. 458/82, 364/83, 465/83, relating to the use of firearms by the police and, if so, whether

investigations had been carried out, and measures taken to prevent their recurrence. Clarification was also sought as to how authorization of abortion on urgency grounds could be reconciled with article 24 of the Constitution.

142. In his reply, the representative of the State party explained that Decree Law No. 430/83 had made it possible to improve intersectoral co-operation in the control of trafficking in an abuse of drugs or psychotropic substances and had led to substantial seizures of drugs coming from abroad. An integrated drug control programme had been approved by the Council of Ministers at the national level which called for action in the areas of prevention, treatment and rehabilitation as well as control of trafficking. At the international level, bilateral drug control agreements had been concluded with a number of countries. Although the extension of Decree Law No. 324/85 to other categories was not envisaged for the moment, a commission of jurists appointed by the Minister of Justice had studied the question of compensation of victims and concluded that damages be provided by special legislation when they could not be paid by the offender. The courts could also compensate victims by awarding them property seized by the State or all or a part of the fine paid by the offender. The Constitutional Court had decided not to declare provisions of article 140, paragraph 1, of the Penal Code unconstitutional because it protected the legitimate rights of pregnant women. Accordingly, abortion under the circumstances described therein was not to be considered a criminal offence.

143. Instructions had been issued at all levels concerning the use of firearms by law enforcement agents, cases of improper use in recent years had been investigated with a view to possible criminal proceedings and the use of firearms by the police was systematically monitored by senior police officials. In the three cases of violations of the regulations concerning the use of firearms involving the National Republican Guard, investigations had been carried out by the judiciary as well as by the military authorities and the cases had been widely publicized in the media. In one additional case involving personnel of the Criminal Investigation Department, it had been found that firearms had been used in self-defence.

Liberty and security of the person and treatment of prisoners and other detainees

144. With regard to that issue, members of the Committee wished to know whether there were any safeguards against abusive resort to special security measures and confinement in special security cells: whether there were any independent and impartial procedures under which complaints about the ill-treatment of individuals by the police or prison officials could be made and investigated; what were the maximum time-limits for remand in custody; what remedies were available to a person claiming to be illegally detained; and whether there was a right to compensation for persons illegally arrested or detained. They also requested detailed information concerning deprivation of liberty as a result of the “judicial application of a security measure”; the circumstances and conditions of “partial deprivation of freedom”; and detention in institutions other than prisons and for reasons unconnected with the commission of a crime. It was also asked whether the United Nations Standard Minimum Rules for the Treatment of Prisoners were complied with and the relevant regulations and directives known and accessible to prisoners.

145. Additionally, information was requested concerning special security cells and the incommunicado régime; conditions under which the use of handcuffs was authorized; whether a

prisoner could be kept in a state of sensory deprivation; and whether confessions obtained under duress could be invoked as evidence in a proceeding.

146. Replying to questions raised in connection with special security measures, the representative of the State party said that limitations on the rights of prisoners were only applied in exceptional situations involving a threat to the security of the prison or danger to other prisoners and calling for particularly serious measures. Such measures had to be in proportion to what was required by the situation and could only be applied for as long as that situation continued. Even in particularly serious cases, which required the prisoner to be separated from the prison population as a whole, contacts with the outside world were not completely severed. In practice, prisoners in that category were placed in special quarters where visiting rights and privileges accorded under the general detention régime were restricted but the cells in those quarters were identical to other cells. The use of handcuffs was permitted only where other measures had been shown to be ineffective and then only under medical supervision. A detainee even if charged with terrorism or a serious crime was always able to communicate with his counsel. Complaints of ill-treatment and any cases of death occurring in prison gave rise to an immediate investigation by the director of the establishment concerned or by higher authorities, depending upon the gravity of the circumstances. Protection against abuse was based on general guarantees defined in the penitentiary law. The judge responsible for the enforcement of sentences supervised their execution and played an advisory role during visits to prison establishments. The penitentiary law reform introduced by Decree Law No. 265/79 took account of the United Nations Standard Minimum Rules for the Treatment of Prisoners and was made known to the detainees.

147. Turning to questions raised in connection with pre-trial detention, the representative stated that in normal cases such detention varied from six months to two years depending on the stage the trial had reached. Some exceptions to that rule were authorized under the law based on such factors as the nature and gravity of the crime. Persons who considered themselves to be illegally detained could apply for a writ of habeas corpus. Article 27 (5) of the Constitution provided that any deprivation of freedom in breach of the provision of the Constitution and the law obliged the State to compensate the victim in accordance with the law. The 1987 Code of Penal Procedure contained a new provision stating that any person who had been unlawfully detained on a pre-trial basis or otherwise was entitled to compensation. The right to compensation also existed in cases where pre-trial detention, even if lawful, was shown to be unjustified.

148. Security measures provided for in article 27 of the Constitution could only be applied as a result of a court judgement and could be extended by judicial decision only for as long as the dangerous condition lasted. Such decisions were subject to review after three years at most. The Mental Health Act provided that the mentally ill should be given appropriate treatment to restore them to normalcy. Partial deprivation of liberty had to be of less than three months' duration and was served during days off which allowed the convicted persons to continue with their work or studies. There was also a probation system applicable to persons sentenced to deprivation of liberty for a period not exceeding three years. The "relatively" indeterminate sentence was applied to offenders showing a strong propensity for crime and to drug addicts or alcoholic offenders and could not exceed a maximum of 25 years.

Right to a fair trial

149. With regard to that issue, members of the Committee wished to know the extent to which the amendment of article 32, paragraph 4, of the Penal Code had weakened the position of the accused; whether there was any free legal aid and advisory scheme; whether under article 29 of the Constitution the principle of the most favourable law, enshrined in article 15 of the Covenant, applied only to an accused person or to a convicted person as well; whether persons convicted of administrative offences could be sent to prison; and whether placing the judicial police under the guidance of the public prosecutor had led to significant improvements over the former system. Information was also sought regarding the nature and competence of the courts responsible for the enforcement of sentences.

150. In his reply, the representative of the State party explained that during the pre-trial proceedings the public prosecutor, the accused and his counsel, and the plaintiff and his counsel could participate in the hearing. Legal aid could be applied for at any stage in the proceedings by the accused, his lawyer, or the public prosecutor's department. If he considered he was not being defended with due diligence, the accused could request the court to provide him with another counsel. The penalty for administrative offences could be a fine, possibly accompanied by other penalties, but not imprisonment. The principle of the most favourable law was applied during proceedings, and not after a final decision. The courts for the enforcement of sentences were ordinary courts with specialized competence in matters concerning the lives and treatment of prisoners.

Freedom of movement and expulsion of aliens

151. In connection with that issue, members of the Committee wished to receive further information regarding the meaning of the term "threat against the dignity of the State of Portugal or of its nationals" and concerning the provisions of Portuguese Law relating to the issuance of passports to foreigners living in Portugal whose country had no diplomatic or consular representation there. They also wished to know whether persons seeking asylum who had not submitted their application within the period of 60 days were automatically subjected to expulsion; whether an appeal against an expulsion order had suspensive effect; and how many requests for asylum had been refused in recent years.

152. In his reply, the representative of the State party said that no alien had ever been expelled from Portugal for failure to respect the Portuguese State and its citizens and no deportations could take place on any grounds that were contrary to conventions to which Portugal was a party. Expulsion decisions were rendered in strict observance of all legal guarantees, had to be substantiated, and the judge had to indicate, *inter alia*, the time allowed for their execution. Portugal refused to grant extradition in cases where the death penalty was likely to be applied nor would it expel a person to his own country if he was in danger of persecution there for political reasons. An alien seeking asylum who failed to submit an application within 60 days of entering Portuguese territory was regarded as having entered the country illegally. Applications for asylum had to describe the circumstances justifying asylum and to be accompanied by a list of up to 10 references. Between 1974 and 1989, 767 such applications had been granted. Many of these had been submitted by persons previously living in the former Portuguese colonial territories who, following decolonization, had left those territories because of persecution or for political reasons. Refusal of

asylum could be appealed against, with suspensive effect, to the Supreme Administrative Court. In many cases in which permanent residence had not yet been authorized, temporary permission was given pending a final decision. Passports were issued to stateless persons or to nationals of countries without any diplomatic or consular representation in Portugal in order to give them legal citizenship of national territory.

Right to privacy

153. With regard to that issue, members of the Committee wished to receive additional information on article 17 of the Covenant in the light of the Committee's general comment No. 16 (32) and concerning the role of the Inspection Board. They also wished to know who was entitled to set up a personal data bank and on what basis and how information from data banks could be disclosed.

154. Responding to questions raised by members, the representative of the State party noted that privacy was protected under Portuguese law by various articles of the Penal Code, including articles 176, 178-181, 428 and 434. In one case the Constitutional Court had declared unconstitutional a rule that had allowed the authority to search the tents and caravans of gypsies. Following a Constitutional Court finding of unconstitutionality by omission in respect of article 35, paragraph 4, of the Constitution, a law regulating the rights of citizens in relation to data banks had been drafted and shortly to be considered by the Assembly of the Republic. That law would, *inter alia*, regulate the compilation and processing of personal data and the establishment of individual data files and would create the National Commission on Data Processing and Freedoms.

155. The Inspection Board exercised an oversight function in respect of the Strategic, Military, and Security Intelligence Services, receiving annual reports from them. When necessary, it could request additional information about their activities. In its first report to the Assembly of the Republic covering the years 1986 and 1987 the Board had stated that it considered itself responsible for checking whether the rights of citizens were being respected by these services and had concluded that this had, indeed, been the case.

Freedom of religion and expression; prohibition of propaganda for war and incitement to national, racial or religious hatred

156. With reference to those issues, members of the Committee wished to know what the main differences were between the status of the Catholic Church and other religious denominations and how the right to equal treatment of the latter was ensured; how many persons had been recognized as conscientious objectors and on what grounds; whether the right to conscientious objection to military service on the grounds of a person's philosophical beliefs was acknowledged; and whether service as a conscientious objector conferred the same rights and benefits as regular military service. Additionally, they requested information concerning religious assistance to non-Catholic prisoners; the right of parents to bring up their children in accordance with their own beliefs; the scope of the right to seek information enshrined in article 37 of the Constitution; prosecutions, if any, under article 7 of the Television Act; arrangements for apportioning broadcasting time among the various political parties; and the concept of "collective disobedience" in the armed forces.

157. Responding to questions raised in connection with the freedom of religion, the representative

of the State party explained that the difference in status between the Catholic Church and other religions stemmed from genuine diversity and could therefore not be regarded as a violation of the principle of equality. A legislative measure had recently been adopted to ensure that all children, irrespective of their religious denomination, could attend moral and religious classes at their school. Children were also excused from attending school on the days of rest and festivals particular to their religion. The principle of equality was also evident in respect of the social security régime applicable to clergy from the Roman Catholic Church and other religions and the granting of tax exemptions to all denominations without distinction. Ministers from other religions were authorized to work in prisons as necessary. The right and duty of parents to bring up their children, under article 36 of the Constitution, covered all aspects of a child's education and moral, civic and social training.

158. The grounds for conscientious objection could be religious, moral or philosophical; the decision whether a person should be recognized as a conscientious objector rested with the courts. Civic service was of the same duration and difficulty as military service and conscientious objectors had the same rights and duties as other citizens. Thus far, 700 people had been recognized as conscientious objectors, mostly on religious grounds.

159. Under article 37 of the Constitution, citizens were entitled to be informed by the authorities and an explicit right of access to official archives and administrative registers had also been added to the Constitution. While there had been no prosecutions as yet under article 7 of the Television Act, criminal proceedings had been brought against a newspaper for publishing an item liable to provoke discrimination or violence against certain social groups. According to article 40 of the Constitution, political parties, trade unions and professional associations were granted a fixed and equitable amount of broadcasting time on the basis of their representativity. The crime of "collective disobedience" required a specific intention to destroy, alter or subvert the constitutionally established rule of law.

Protection of family and children

160. With regard to that issue, members of the Committee inquired whether there was any legislation protecting a family based upon a steady cohabitation without formal marriage; what differences existed in the status and rights of children born in and out of wedlock; and how the Portuguese Government ensured the implementation of articles 60 (2)e and 74 (3)h of the Constitution. They also wished to receive information on law and practice relating to the employment of minors.

161. In his reply, the representative of the State party said that individuals in a situation of cohabitation enjoyed protections under various laws. The Constitution provided that children born out of wedlock should not be discriminated against and that neither the law nor the authorities could make discriminatory appellations concerning their parenthood. Decree Law No. 496/77 had abolished certain articles of the Civil Code that had discriminated against children born out of wedlock in respect of filiation, adoption and inheritance. Portugal had ratified the European Convention on the Legal Status of Children Born out of Wedlock in 1982.

162. The minimum age for work was 14 years and an employer could not use minors for work

which might affect their physical, spiritual or moral development and had to make sure that they received educational and vocational training. Unfortunately, in some areas in the north of the country there were still cases where child labour was exploited but the authorities were attempting to deal with the problem in a realistic and forceful fashion. The phenomenon was, however, quite complex, and measures of differing scope and nature would need to be taken within the overall framework of cultural, social and economic development. There were currently 4 million Portuguese working abroad as migrant workers, and they were provided with legal and social advisory services, medical examinations and other assistance when leaving, after their arrival in the host country, and on their return to Portugal. Study of the Portuguese language and culture abroad was encouraged, particularly within the framework of universities or through the creation of schools for Portuguese emigrants. Portugal had also signed bilateral agreements with the Federal Republic of Germany, Belgium, Spain, France and Luxembourg for the teaching of Portuguese in those countries and had ratified the European Convention on the Legal Status of Migrant Workers in 1976.

Right to participate in the conduct of public affairs

163. With regard to that issue, members of the Committee wished to know whether, in view of article 30 (4) of the Constitution, political rights could be restricted under any circumstances and whether any such restrictions were currently in effect; how the freedom of citizens to belong to the political party of their choice could be accommodated with some of the provisions of the Constitution which appeared to advocate a particular political model - namely, the establishment of a socialist society; and whether the failure to exercise the right to vote had any consequences.

164. In his reply, the representative of the State party said that political rights could be deprived pursuant to a judicial decision and in compliance with the applicable laws. Sentences imposed for certain crimes necessarily involved the loss of some political rights. Voting was not compulsory and no sanctions were imposed for failure to vote. Provisions of the 1974 Constitution relating to "transition to socialism" and nationalizations had subsequently been revised to favour plurality of expression and the achievement of economic, social and cultural democracy.

Right of persons belonging to minorities

165. With reference to that issue, members of the Committee wished to receive information on the practical measures that had been taken to protect the rights of gypsies and to preserve the Mirandês dialect in north-eastern Portugal.

166. In his reply, the representative of the State party said that a 1920 law providing for special surveillance of gypsies and certain regulations, under which searches in gypsy homes had been allowed during the night and without a warrant, had been declared unconstitutional. The conditions of access to education for the most economically and socially disadvantaged groups and, more particularly for gypsy children, had also been improved. Mirandês was a language spoken by 15,000 persons in the north-east of the country and represented a rich cultural heritage. In order to safeguard that heritage, optional classes had been established in the primary schools and would soon be offered in the secondary schools.

General observations

167. Members of the Committee thanked the Portuguese delegation for its valuable co-operation and commended the State party for the excellence of its report. They expressed satisfaction with the progress that had been achieved in the human rights field in Portugal within the short time that had elapsed since the return of democracy. The fact that article 7 of the Constitution explicitly raised human rights to a guiding principle of Portugal's international relations was a source of special satisfaction. Members nevertheless considered that their concerns had not been fully allayed, especially with regard to the duration of pre-trial detention. They also expressed the hope of receiving further clarifications of questions relating to the situation of foreigners in Portugal; the status of women; suspension of the exercise of rights during a state of emergency; the obligation under certain conditions for journalist to reveal their sources of information; and in respect of treatment of prisoners. Concern was also expressed over the fact that the Covenant had not been incorporated into the internal legislation of Macao and, in that connection, it was suggested that a separate report on the situation of rights and freedoms in Macao should be submitted to the Committee.

168. The representative of the State party thanked the members of the Committee for their keen interest and assured them that the Committee's comments, especially those on Macao, would be communicated to the authorities.

169. In concluding the consideration of the second periodic report of Portugal, the Chairman again thanked the delegation for its co-operation and for having submitted an excellent report which described clearly the legal framework and the means of application of the Covenant in domestic law and in administrative practice. He also reiterated the Committee's request for a detailed report on the situation in Macao.

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Portugal (Macau)

309. The Human Rights Committee considered the third periodic report of Portugal relating to Macau (CCPR/C/70/Add.9) at its 1576th and 1577th meetings (fifty-ninth session), held on 4 April 1997, and at its 1584th meeting, on 10 April 1997, adopted the following observations.

Introduction

310. The Committee welcomes the presence of a high-level delegation, which included several officials of the Macau Government. It expresses its appreciation to the representatives of the State party for the high quality of the report, the abundance of additional information and the detailed and frank answers provided in response to the oral and written questions posed and comments made by the Committee during its consideration of the report. The Committee notes with satisfaction that that information enabled it to engage in a highly constructive dialogue with the State party.

Factors relating to reporting obligations under the Covenant

311. The Committee notes that given the late extension of the Covenant to Macau, the Sino-Portuguese Joint Declaration and Exchange of Memoranda of 13 April 1987 does not refer to it and merely states that the laws currently in force in Macau will remain basically unchanged and that all rights and freedoms of the inhabitants and other persons in Macau, including the rights of the person, freedom of speech, of the press, of assembly, of association, of travel and of movement, the right to strike, the choice of occupation, to undertake academic research, freedom of religion and belief and of communication and the right to own property will be ensured by law in the Macau Special Administrative Region. That was followed by a Memorandum of Understanding between the People's Republic of China and the Government of Portugal, signed by their respective Ambassadors, for extension of the Covenant to Macau with reservations, and thereafter by resolution 41/92 of the Assembly of the Portuguese Republic of 31 December 1992, stipulating that the provisions of the Covenant were extended to Macau with certain reservations, particularly in regard to article 12, paragraphs 4 and 13. The Committee notes that article 40 of the Basic Law of the Macau Special Administrative Region of the People's Republic of China, adopted by the People's Congress on 31 March 1993, states that the provisions of the Covenant shall continue in force after 19 December 1999 and shall be implemented through the laws of the Macau Special Administrative Region.

312. Accordingly, the Sino-Portuguese Joint Declaration, read in conjunction with the Memorandum of Understanding and the Basic Law, appears to provide a sound legal basis for the continued protection in Macau after 19 December 1999 of the rights specified in the Covenant. The Committee, moreover, wishes to reiterate its long-standing position that human rights treaties devolve with territory and that States continue to be bound by the obligations under the Covenant entered into by the predecessor State. Once the people living in a territory find themselves under the protection of the International Covenant on Civil and Political Rights, such protection cannot be denied to them merely on account of the dismemberment of that territory or its coming within the

jurisdiction of another State or of more than one State. ^{5/} Consequently, the reporting requirements under article 40 of the Covenant will continue to apply and the Committee expects to receive and review reports in relation to Macau after 19 December 1999.

Positive aspects

313. The Committee welcomes the fact that the death penalty has been abolished in Macau, including for military crimes. It notes with appreciation that the domestic law as interpreted by the Superior Court of Justice prohibits extradition to a country where the person concerned may be sentenced to death.

314. The Committee notes with appreciation that strict safeguards exist in the Organic Statute of Macau with regard to the declaration of a state of siege or state of emergency and that non-derogable rights under article 4, paragraph 2, of the Covenant may under no circumstances be derogated from.

315. It is also noted with appreciation that under article 30 of the Portuguese Constitution, persons deprived of their liberty are entitled to continue to enjoy their fundamental rights, save for those limitations that are inherent in their imprisonment.

316. The Committee welcomes the efforts being made by the authorities to disseminate information on human rights to members of the judiciary, civil servants, teachers and the public in general.

317. The Committee notes with appreciation that under article 22 of the Portuguese Constitution, read in conjunction with article 2 of the Organic Statute of Macau, State agencies and public bodies are held liable for actions or omissions resulting in violations of human rights.

318. The Committee welcomes the setting up of new institutions and offices to protect human rights, such as the Public Information and Assistance Centre and the High Commission against Corruption and Administrative Illegality.

Principal subjects of concern

319. The Committee notes with concern that, while the majority of the population is Chinese-speaking, official charge forms and charge sheets, as well as court documents and decisions, are in Portuguese only, although efforts are being made to make Chinese versions available to the people.

320. The Committee is concerned that, despite guarantees of equality in the Constitution and in labour legislation, de facto inequalities continue in regard to the situation of women and their remuneration. The persistence of certain traditional attitudes and practices contributes to this inequality and discrimination in the workplace.

^{5/} See CCPR/C/SR.1178/Add.1, CCPR/C/SR.1200-1202 and CCPR/C/SR.1453.

321. The Committee is particularly concerned at reports on the extent of trafficking in women in Macau and on the large number of women from different countries who are being brought into Macau for the purpose of prostitution. The Committee is extremely concerned at the inaction by the authorities in preventing and penalizing exploitation of those women and that, in particular, immigration and police officials are not taking effective measures to protect them and to impose sanctions on those who are exploiting women through prostitution, in violation of article 8 of the Covenant.

322. The Committee expresses concern at the low percentage of locally born residents holding senior positions in public administration, thus raising the issue of implementation of article 25 of the Covenant.

323. The Committee is concerned that no firm arrangements have been made between the Governments of China and Portugal with regard to the nationality of the residents of Macau after 19 December 1999.

324. The Committee regrets that, despite the efforts that are being made by the authorities to disseminate information in regard to the rights recognized in the Covenant, the public in general, and non-governmental organizations in particular, were not adequately informed of the Human Rights Committee's consideration of the third periodic report of Portugal. The Committee is also concerned that non-governmental organizations in Macau are not being encouraged to participate in programmes for the promotion and protection of human rights and that their cooperation is not sought in regard to the implementation of human rights.

Suggestions and recommendations

325. The Committee recommends that efforts be accelerated to introduce, as soon as possible, the use of the Chinese language in the courts at all levels and particularly in court documents and decisions.

326. The Committee recommends that determined efforts be made to ensure a substantial rise in the percentage of locally born residents holding senior posts in public administration and the judiciary.

327. The Committee recommends that the Government initiate or strengthen programmes aimed at providing assistance to women in difficult circumstances, particularly those from other countries who are brought into Macau for the purpose of prostitution. Strong measures should be taken to prevent that form of trafficking and to impose sanctions on those who exploit women in that way. Protection should be extended to women who are the victims of that kind of trafficking so that they may have a place of refuge and an opportunity to stay in order to give evidence against the person responsible in criminal or civil proceedings.

328. The Committee recommends that the provisions of article 4 of the Portuguese Assembly's resolution No. 41/92, whereby article 12, paragraph 4, and article 13 of the Covenant are not applicable to Macau as far as entry and departure of persons and the expulsion of foreigners from the Territory are concerned, be repealed as soon as possible.

329. The Committee recommends that human rights education be extended to members of the police and security forces, the legal profession and other persons involved in the administration of justice, with a view to making it part of their regular training.

330. The Committee suggests that further efforts be undertaken to disseminate information in regard to the rights recognized in the Covenant and the activities carried out by the Committee. In particular, it recommends that the present observations be widely disseminated among the public.

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158. The Committee considered the fourth periodic report of Portugal relating to Macau (CCPR/C/POR/99/4) at its 1794th and 1795th meetings, held on 25 and 26 October 1999, and adopted the following concluding observations at its 1806th meeting, held on 2 November 1999.

1. Introduction

159. The Committee welcomes the attendance of a large delegation, including a number of officials from the Government of Macau. It wishes to express its thanks to the representatives of the State party for their detailed responses to the questions posed orally and in writing and to the comments made by the Committee during its consideration of the report, and for their offer to supply further information in writing. The Committee regrets that although it has received information on the legislation applicable before and after 19 December 1999, it has not been given enough details on the subject or up-to-date statistics.

160. The Sino-Portuguese Joint Declaration, read in conjunction with the Memorandum of Understanding and the Basic Law, provides a legal basis for the continued protection in Macau after 19 December 1999 of the rights specified in the Covenant. The Committee, moreover, wishes to reiterate its long-standing position that human rights treaties devolve with territory, and that States continue to be bound by the obligations under the Covenant entered into by the predecessor State. Once the people living in a territory find themselves under the protection of the International Covenant on Civil and Political Rights, they cannot be stripped of that protection on account of a change in sovereignty (see CCPR/C/SR.1178/Add.1, SR.1200-1202 and SR.1453). Consequently, the reporting requirements under article 40 of the Covenant will continue to apply and the Human Rights Committee expects to receive and review reports in relation to Macau after 19 December 1999.

2. Positive aspects

161. The Committee notes with satisfaction the negotiations between the Portuguese and Chinese authorities to ensure legal continuity (article 8 of the Basic Law) and continued application of international treaties. It welcomes the fact that a large number of the rights and fundamental freedoms set forth in the Covenant are enunciated in articles 24 to 44 of the Basic Law of Macau.

162. The Committee notes with satisfaction the great efforts which have been made in the past few years to give the Chinese-speaking population access to official forms and to court documents and decisions in Chinese, and that Chinese is used in the courts and for official business. It notes that under article 9 of the Basic Law, both Chinese and Portuguese can be used as official languages after 19 December 1999.

163. The Committee also notes with satisfaction that the Governments of Portugal and China reached agreement in March 1998 on the principles underlying the new organization of the legal system, which guarantee the non-removability of judges and the autonomy and independence of the judiciary.

3. Principal subjects of concern and Committee recommendations

164. The Committee notes with great concern that on the eve of the territory of Macau being returned to the sovereignty of the People's Republic of China, it still remains unclear which laws, including human rights laws, will be held incompatible with the Basic Law of the Macau Special Administrative Region and therefore become invalid after 19 December 1999.

165. The Committee wishes to underline the obligation of the State party, according to article 2 of the Covenant, as well as that of the State under whose jurisdiction the territory will be, to ensure that the population of Macau remains fully protected under the Covenant after 19 December 1999.

166. The Committee notes the ombudsman functions of the High Commissioner against Corruption and Administrative Illegality, and the petition procedure; however, it regrets the absence of an independent, statutory human rights commission with a mandate to monitor the implementation of human rights legislation. Such a Commission should be established.

167. The Committee is concerned at the paucity of judges, lawyers and interpreters, which might adversely affect the administration of justice.

168. Further efforts should be made to train lawyers and interpreters and give them a specialization in human rights.

169. The Committee is concerned that despite guarantees of equality in the Constitution, also reflected in article 25 of the Basic Law and in labour legislation, de facto inequalities continue with regard to the status of women and their remuneration.

170. Effective measures should be taken to eliminate inequalities with regard to the status of women and their remuneration.

171. The Committee notes reports that organized crime and, in particular, trafficking in women and prostitution persist in Macau. It acknowledges that the Penal Code prohibits organized crime, but is concerned at the authorities' failure to take action to protect the victims.

172. Preventive action should be taken to stamp out trafficking in women and rehabilitation programmes for the victims should be provided. The victims should be protected and supported by laws and policies of the State party.

173. The Committee is concerned at certain aspects of Law 6/97/M (promoting, founding or supporting a secret association), namely the creation of a vague and insufficiently defined (or "abstract") offence, and the imposition of an increased sentence, or conviction, on the basis that the person is a "habitual offender" or is likely to repeat such an offence.

174. Penal legislation should be brought into line with articles 14 and 15 of the Covenant, in particular the prohibition on trying a person or placing him/her in jeopardy twice for the same offence (non bis in idem, art. 14, para. 7) and the ban on laws with retroactive effect (nullum crimen sine lege, nulla poena sine lege, art. 15).

175. The Committee is concerned that the Governments of China and Portugal have not yet reached firm agreement on the nationality of residents of Macau after 19 December 1999, and that the criteria which will determine which Macau residents may be regarded as being of Portuguese origin are not yet known.

176. Effective measures should be taken to safeguard the rights of those who at present hold dual citizenship.

177. The Committee is also concerned that no firm agreement has been reached on the transfer of residents of the Macau Special Administrative Region to face trial in other jurisdictions in China, or their extradition to other countries in cases where they may face heavier penalties than those laid down in the Macau Penal Code, including the death penalty.

178. The Committee reiterates that Macau residents enjoy the protection of the Covenant and should not lose that protection by being transferred to other jurisdictions.

179. The Committee is concerned at the lack of firm agreements guaranteeing freedom of the press and expression after 19 December 1999.

180. Effective measures should be taken to guarantee those freedoms for the future.

181. The Committee is concerned at the paucity of non-governmental human rights organizations and the fact that their establishment is not being encouraged.

5. Dissemination of information about the Covenant (art. 2)

182. The Committee regrets that the public in general is not adequately informed of the Human Rights Committee's consideration of the report. The Committee recommends that the State party distribute the text of its report and these concluding observations widely. The State party's next report should be prepared on an article-by-article basis, in accordance with the Committee's revised guidelines and should give particular attention to the issues raised by the Committee in these concluding observations. It sets the date for the next report on the implementation of the Covenant in Macau at 31 October 2001.

CCPR A/58/40 (2003)

83. Portugal

(1) The Human Rights Committee considered the third periodic report of Portugal (CCPR/C/PRT/2002/3) at its 2110th and 2111th meetings, held on 21 July 2003 (CCPR/C/SR.2110 and 2111). It adopted the following concluding observations at its 2126th meeting (CCPR/C/SR.2126), held on 31 July 2003.

Introduction

(2) The Committee welcomes the submission of the third periodic report of Portugal and the opportunity to resume the dialogue with the State party after an interval of more than 10 years. In the view of the Committee, the failure to submit a report over such a long period constitutes an obstacle to in-depth consideration of the measures that require to be taken to ensure satisfactory implementation of the Covenant. The Committee invites the State party to submit its reports henceforth in accordance with the reporting intervals established by the Committee.

(3) The Committee welcomes the information provided in the report, as well as the oral and written information provided by the delegation. It regrets, however, the insufficient information on the practical implementation of the Covenant and on factors and difficulties preventing or impeding such implementation.

Positive aspects

(4) The Committee appreciates the creation, in 1995, of the General Inspectorate of Internal Administration within the Ministry of the Interior, with a mandate to open inquiries into reports of police abuse. It also welcomes the creation of the General Inspectorate of Justice Services in 2000, as well as of the Office of Ombudsman.

(5) The Committee welcomes the decrease in prison overpopulation achieved in recent years, as well as the measures adopted to improve the situation of prisoners.

(6) The Committee welcomes the granting to foreigners of the rights to vote and to be elected in local elections, as well as the recognition of broader political rights for citizens of Portuguese-speaking countries, under condition of reciprocity.

(7) The Committee notes with satisfaction that the State party has translated into Portuguese and disseminated numerous United Nations documents relating to human rights.

Principal subjects of concern and recommendations

(8) The Committee is concerned about reported cases of disproportionate use of force and ill-treatment by the police, occurring particularly at the time of arrest and during police custody, and resulting, in some instances, in the death of the victims. Police violence against persons belonging

to ethnic minorities appears to be recurrent. The Committee is equally concerned about the reported failure of the judicial and administrative systems to deal promptly and effectively with such cases, particularly those relating to the deaths of several persons in 2000 and 2001, allegedly caused by police officers (arts. 2, 6, 7 and 26).

(a) The State party should end police violence without delay. It should increase its efforts to ensure that education on the prohibition of torture and ill-treatment, as well as sensitization on issues of racial discrimination, are included in the training of law enforcement personnel. Efforts should also be made to recruit members of minority groups into the police.

(b) The State party should ensure that all alleged cases of torture, ill-treatment and disproportionate use of force by police officers are fully and promptly investigated, that those found guilty are punished, and that compensation is provided to the victims or their families. To this end, a police oversight service, independent from the Ministry of the Interior, should be created. The State party is requested to provide the Committee with detailed statistical data on complaints relating to cases of torture, ill-treatment and disproportionate use of force by the police and their outcome, disaggregated by national and ethnic origin of the complainant.

(9) The Committee notes with concern that Portuguese regulations on police use of firearms, as described in the periodic report, are not compatible with the United Nations Principles on the Use of Force and Firearms by Law Enforcement Officials. It is concerned that several persons have been shot dead by the police in recent years and that training in the use of firearms is reported to be insufficient (arts. 6 and 7).

The State party should ensure that principles 9, 14 and 16 of the United Nations Principles on the Use of Force and Firearms by Law Enforcement Officials, relating to legitimate cases of use of firearms, are fully integrated into Portuguese law and implemented in practice and that adequate training is effectively conducted.

(10) The Committee is concerned about reported cases of ill-treatment and abuse of authority by prison staff and of violence among prisoners which, in some instances, have led to the death of the victims (arts. 6, 7 and 10).

(a) The State party should increase its efforts towards the elimination of violence among prisoners and ill-treatment by prison staff, in particular through adequate training of staff and timely prosecution of offences.

(b) The State party should keep the Committee informed about the outcome of the proceedings conducted as a result of the violent death of two prisoners in October 2001 in the prison in Vale de Judeus. Responses to allegations of ill-treatment by prison staff in the prisons of Custóias and of Linhó (Sintra) are also requested.

(c) More comprehensive information on the status, mandate and achievements of the various agencies supervising prisons and dealing with complaints from detainees should be provided to the Committee.

(11) The Committee is concerned that, despite considerable improvement, overpopulation in prisons still amounts to 22 per cent, that access to health care remains problematic and that pre-trial and convicted detainees are not always kept separately in practice (arts. 7 and 10).

The State party should ensure that all persons deprived of liberty are treated with humanity and with respect for their inherent dignity as human beings. It should intensify its efforts to reduce the overpopulation in prisons and ensure that pre-trial and convicted detainees are kept separately. Appropriate and timely medical care must be available to all detainees.

(12) The Committee takes note that asylum-seekers whose applications are deemed inadmissible (e.g. on the basis of the exclusion clauses of article 1 F of the 1951 Convention relating to the Status of Refugees or because they have missed the eight-day deadline for submitting their applications) are not deported to countries where there is armed conflict or systematic violations of human rights. However, it remains concerned that applicable domestic law does not provide effective remedies against forcible return in violation of the State party's obligation under article 7 of the Covenant.

The State party should ensure that persons whose applications for asylum are declared inadmissible are not forcibly returned to countries where there are substantial grounds for believing that they would be in danger of being subjected to arbitrary deprivation of life or torture or ill-treatment, and provide effective remedies in domestic law in this regard.

(13) The Committee expresses concern about reported cases of police failure to register arrests and detentions (art. 9).

The State party should ensure that all arrests and detentions are registered, in particular through the improvement of its supervision system and the training of police officers.

(14) The Committee is concerned that a person may be held in pre-trial detention for a period of 6 to 12 months before charges are brought and that such detention in exceptional cases can last for up to 4 years. It further notes with concern that, in spite of the exceptional character of pre-trial detention, as stated in the Code of Criminal Procedure, almost one third of the persons detained in Portugal are in pre-trial detention (arts. 9 and 14).

The State party should amend its legislation in order to ensure that charges are brought against persons in pre-trial detention and that all persons are tried within a reasonable time. It should ensure that in practice magistrates only order pre-trial detention as a last resort.

(15) The Committee notes with concern that many of the provisions relating to terrorism in the Penal Code and the Code of Penal Procedure relate to exceptional situations, which may result in violations of articles 9, 15 and 17 of the Covenant.

The State party should ensure that measures taken against terrorism do not infringe the provisions of the Covenant and that exceptional provisions are not abused by State officials.

(16) The Committee notes with concern that detainees subject to solitary confinement as a disciplinary measure may only lodge an appeal if the period of confinement exceeds eight days. The

Committee is also concerned that during solitary confinement the daily monitoring of detainees by fully qualified medical staff is not guaranteed (art. 10).

The State party should ensure the right of detainees to an effective remedy, with suspensive effect, against all disciplinary measures of solitary confinement and should guarantee that detainees are monitored daily by fully qualified medical staff during solitary confinement.

(17) The Committee notes that an accessory penalty of expulsion may not be imposed on a resident alien when the person concerned was born and lives in Portugal, or exercises parental authority over under-age children residing in Portugal, or has been in Portugal since he/she was less than 10 years old. The Committee is concerned, however, that those limitations may not protect the family life in all cases and that non-resident aliens do not benefit from such guarantees (arts. 17 and 26).

The State party should amend its legislation in order to ensure that the family life of resident and non-resident aliens sentenced to an accessory penalty of expulsion is fully protected.

(18) The Committee is concerned that lawyers and medical doctors may be required to give evidence, despite their duty of confidentiality, in cases which are described in very broad terms by the Code of Criminal Procedure (art. 17).

The State party should amend its legislation so that it specifies the precise circumstances in which limitations on the professional privilege of lawyers and medical doctors are imposed.

(19) The Committee notes with concern that, despite numerous protective legislative measures, the proportion of juvenile workers has increased in Portugal since 1998 and that no statistics have been gathered regarding the worst forms of child labour (art. 24).

The State party should intensify its efforts to eliminate child labour, conduct studies on the existence of the worst forms of child labour and strengthen the effectiveness of its supervisory system in this area. In its next periodic report, the State party should provide the Committee with detailed information regarding the practical application of article 24 of the Covenant, including on criminal and administrative sanctions which have been ordered.

(20) The Committee is concerned that, despite extensive positive measures adopted by the State party, the Roma continue to suffer from prejudice and discrimination, particularly with regard to access to housing, employment and social services, and that the State party was unable to submit detailed information, including statistical information, on the situation of these communities as well as on the results achieved by the institutions responsible for the advancement and welfare of the Roma (arts. 26 and 27).

(a) The State party should intensify its efforts to integrate Roma communities in Portugal in a manner that is respectful of their cultural identity, in particular through the adoption of positive action with regard to housing, employment, education and social services.

(b) The State party should submit detailed information to the Committee about the situation and difficulties encountered by the Roma people, as well as on the results achieved by the High

Commissioner for Immigration and Ethnic Minorities, the Commission for Equality and against Racial Discrimination and the Working Group for the Equality and Integration of Roma. Information relating to complaints filed with those institutions by members of ethnic minorities in Portugal and their outcome should also be provided.

(21) The Committee regrets that insufficient information was provided about the activities and the achievements of the Ombudsman (art. 2).

The State party should submit more comprehensive information about the Ombudsman and provide the Committee with copies of the Ombudsman's annual report.

(22) The Committee sets 1 August 2008 as the date of submission of Portugal's fourth periodic report. It requests that the text of the State party's third periodic report and the present concluding observations be published and widely disseminated throughout the country and that the fourth periodic report be brought to the attention of non-governmental organizations working in Portugal.

(23) In accordance with rule 70, paragraph 5, of the Committee's rules of procedure, the State party should provide information within one year on its response to the Committee's recommendations contained in paragraphs (8) to (10). The Committee requests the State party to provide information in its next report on the other recommendations made and on the implementation of the Covenant as a whole.