

ADVANCE UNEDITED VERSION

Portugal – IVth Report on the execution of the International Covenant on Economic, Social and Cultural Rights.

Introduction

1. Portugal is a small country of Western Europe, and two Autonomous Regions, Azores and Madeira compose its Territory. For an area of 89045,1 km² on the European Continent, of 2321,9 Km² in Azores and 784,8 Km² in Madeira, Portugal's resident population amounts to 10 356 117 inhabitants (density of 112,4 hab/km²) of whom 9 869 343 (110,8 hab/km²) on the Continent, 241 763 (104,1 hab/km²) in the Azores and 245 011 (312,2 Hab/km²) in Madeira.

2. Portugal is part of the major UN human rights' Conventions and presented its first report on Economic, Social and Cultural Rights in the eighties under the reference E/1980/6/Add. 35 Rev.1; and its second and third reports in the nineties under the references E/1990/6/Add.6 and E/1994/104/Add. 20.

3. In each case a frank and constructive dialogue between Portugal and the Committee happened. Today, in the framework of this good relationship with the United Nations and in particular the ESCR Committee, Portugal has the honour to present its fourth report on ESCR rights, covering the period between 2002 and 2008.

General Provisions of the Covenant

Article 1 of the Covenant – Right to self-determination

4. Portugal defends the right to self-determination for every country in which or for which this right would not be ensured. It does so in the context of the United Nations conclusions and rules its conduct in this regard accordingly to the International Law and to the conclusions which international community reaches in regard of these matters.

Article 2 of the Covenant – Equality and non-discrimination

Dir. Q. 9 Indicate the impact of international economic and technical assistance and cooperation, whether received or provided by the State Party, on the full realization of each of the Covenant rights in the State Party or, as the case may be, in other countries, especially developing countries.

The Portuguese cooperation

5. The Portuguese cooperation is structured according to a decentralized execution model. Shareholders are the sectoral ministries, public institutes, local collectivities and civil society actors such as NGOs. The Portuguese Institute for Development Support (IPAD)¹ was created in 2003 and restructured in 2007 and is the central body of the Portuguese cooperation and has for objectives the supervision, the direction and the coordination of the cooperation programmes and projects, and of the public aid to development, which are financed by the State and other public entities, as well as the centralization of the information on the cooperation projects promoted by private entities.

6. In 2005 was elaborated the document entitled "A strategic vision for the Portuguese Cooperation" in which the orienting principles of the Portuguese cooperation are defined. In the domain of the effort of promoting the coherence of the development policies some essential tools of the external action of Portugal in strategic areas assume a major importance. These instruments are: the National Strategy for the Sustainable Development (ENDS); the National Strategy on Safety and Development; the Immigrants Integration Plan; the National Equality, Citizenship and Gender Plan; the National Plan for the implementation of Resolution no 1325 of the United Nations Security

¹ As part of the Ministry of Foreign Affairs

Council on Women, Peace and Security. The Plan for the elimination of Female Genital Mutilation was also elaborated and results of an initiative of the civil society with public relevant institutions in this field and NGOs.

7. Since 2006, 6 cooperation strategies were developed, four of which sectoral (education, health, environment and rural development) and two of which are transversal (gender and good governance, participation and Democracy). These documents aim at directing the Portuguese cooperation in these areas. 2010 will be the year of the revision of the gender and good governance strategies after their former elaboration in 2007.

The Portuguese Aid to Development

8. In statistical terms, between 2006 and 2008 the Portuguese Aid to Development (PAD) registered a continuous rise. In 2008 it had grown by 20% when comparing with the former year, which is equal to a rise of 20%, as compared with the former year. That amounted to 429,96 M€ In what concerns its distribution, the bilateral PAD has always been superior to the multilateral PAD, as can be seen in Graph 1. Both registered increases during the period: 90,53 M€ in the bilateral PAD and 23, 65 M€ in the multilateral.

Graph 1. Annex - Evolution of the Portuguese PAD (2006-2008)

9. Portugal concentrates its PAD in the Portuguese speaking countries, overall the PALOP, all situated in the Sub-Saharan Africa and in East Timor. Altogether, these geographic groups absorbed almost 60% of the whole bilateral help in the period 2006-2008 (approximately 124 M€). It is not a so high value as compared with the medium of 78% between 2002 and 2007, by virtue of the concession of a credit line to Morocco, counted at 66M€ in 2008 (Table 1). Portuguese cooperation also helps other countries such as Bosnia Herzegovina which help has been addressed to train transportation. Portugal also participates in various peacekeeping operations such as UNMIK (Kosovo), UNIFIL (Lebanon) and ISAF (Afghanistan).

Table 1. Annex - Geographic Distribution of Bilateral PAD (2006-2008)

10. Making a Continent related analysis, in the period 2006-2008, besides the African Continent, to which the PALOP belong and to where Portugal directs the major part of its bilateral help (60%), Asia absorbed 22% of this help followed by Europe (10% - Graph. 2).

Graph 2. Annex - Geographic distribution of the Portuguese Bilateral PAD (2006-2008)

11. In terms of sectoral concentration, the Portuguese cooperation priorities have been rationalized in a sustainable development and fight against poverty perspective, as a way to the execution of the Millennium Development Goals. This sectoral concentration is also based in two essential criteria: the needs of third countries, as identified in their national development strategies; and the specific added value of the Portuguese Cooperation, having present the necessary work division and complementarity among donors.

12. Thus, as can be verified in Table 2, since 2006, the group **social services and infrastructures** is the one that concentrates the greatest volume of PAD (around 129,73M€). In this group, Education has to be focused (around 50M€ in which the higher education must be mentioned with inter-university cooperation), governance and civil society (around 54M€ where the PAD volume is mostly addressed to the area conflicts, peace and security), followed by other infrastructures and social services (15,5M€).

13. The group infrastructures and economic services is the second most important in terms of help volume, presenting a PAD, between 2006 and 2008, at around 25,68M€ These amounts are due essentially to help to transport and storage infra structure construction/reconstruction, with a medium PAD in this period of around 22,8 M€ In 2008 the Aid Programmes presented exceptionally a higher amount by virtue of the credit line to Morocco.

Table 2. Annex - Sectorial Distribution of Bilateral PAD (2006-2008)

14. In Table 3, it is possible to verify the sectorial distribution of the Technical Cooperation furnished by the Portuguese Cooperation in the framework of the bilateral PAD. Thus it can be verified that between 2006 and 2008, the groups' infrastructures and social services is the one, which presents the greater amount of PAD, concentrating around 91% of the technical cooperation in this moment. In this sectorial group mention must be made to education (around 42M€ in 2008), namely at the level of the training of teachers, and to Governance and Civil society (41M€ in 2008) in which are included the police, justice, administration formation and the taking part in peace missions namely in the United Nations framework.

Table 3. Annex - Sectorial Distribution of the Technical Cooperation in the PAD Bilateral (2006-2008)

Multilateral cooperation

15. In what regards multilateral cooperation, the Portuguese Multilateral Cooperation Strategy was approved in September 2009, which was elaborated with the support of the different sectoral ministries.

16. Portugal tried to align the participation in the multilateral sphere accordingly to its external policy and bilateral cooperation priorities: i) focus in Africa and particularly in the less advanced countries and in the fragile States; ii) support to stabilization and transition to development; iii) alignment and harmonization between the national strategies and policies, having in perspective the Millennium Development Goals; iv) reinforcing the position of the PALOP in the international community.

17. As can be seen in Table 4., between 2006 and 2008, the relative weight of the multilateral PAD was situated at around 43%. In 2008, although in percentage terms the weight of the multilateral PAD decreased as compared to the total of the PAD, it increased in absolute terms, as compared to 2006, at around 23,7%. This relative decrease of multilateral PAD is due to an increase of PAD of 86M€

Table 4. Annex - Evolution of the Multilateral PAD (2006-2008)

18. In what concerns the distribution of the multilateral PAD, observed in Graph 3, between 2006 and 2008, 68% of the contributions were channelled through the European Commission through the European Development Fund (EDF), which finances the EU help to the ACP (Africa, Caribbean, Pacific) countries, and through the European Commission budget for external help which finances help which is not foreseen in the EDF. Concerning the other organizations Portugal channelled 12% of its multilateral help through the IMF, the World Bank and the WTO, 12% through regional development banks and 5% by various United Nations organizations.

Graph 3. Annex - Distribution of the Multilateral PAD (2006-2008)

Dir. Q. 10 In addition to information provided in the common core document, provide disaggregated and comparative statistical data on the effectiveness of specific anti-discrimination measures and the progress achieved towards ensuring equal enjoyment of each of the Covenant rights by all, in particular the disadvantaged and marginalized individuals and groups.

19. According to article 15 of the CPR, foreigner, stateless persons and European citizens who find themselves or who reside in Portugal shall enjoy the same rights and be subject to the same duties as the Portuguese citizens. This principle of national treatment is also enshrined in the Portuguese Civil Code, in its article 14.

20. However, there are some exceptions, namely:

- Article 122 of the CPR states that only Citizens of Portuguese origin, which are registered to vote and have attained the age of thirty-five can be elected President of Republic;
- Article 15 n. ° 2 of the CPR states that Political rights, the exercise of public offices that are not predominantly technical in nature, and the rights that this Constitution and the law reserve exclusively to Portuguese citizens can not be exercise by foreigners and or stateless persons;
- Article 15 n. ° 3 of the CPR, states that with the exceptions of appointment to the offices of President of the Republic, President of the Assembly of the Republic, Prime Minister and President of any of the supreme courts, and of service in the armed forces and the diplomatic corps, in accordance with the law and subject to reciprocity, such rights as are not otherwise granted to foreigners shall apply to citizens of Portuguese-speaking states who reside permanently in Portugal.

21. Within the framework of economic, social and cultural rights and duties, article 59 of the Portuguese Constitution² (hereinafter referred to as “Constitution” or “CPR”) provides that every worker shall be entitled to its rights regardless of age, sex, race, citizenship, place of origin, religion and political and ideological convictions. This provision refers to remuneration; work organisation; social dignity; personal fulfilment and family life; working conditions; rest and leisure time; assistance in unemployment and work-related accident or occupational illness.

22. A structuring principle of the Portuguese legal system is the principle of equality enshrined in article 13 according to which “every citizen shall possess the same social dignity and shall be equal before the law” and “no one shall be privileged, favored, prejudiced, deprived of any right or exempted from any duty on the basis of ancestry, sex, race, language, place of origin, religion, political or ideological beliefs, education, economic situation, social circumstances or sexual orientation.”

23. Equality and non-discrimination is also enshrined in the Portuguese Labor Code (hereinafter referred to as “Code” or “LC”) in articles 22 to 32 and 73 to 78 and further developed by Law no 35/2004, the 29 July 2004.

24. The article 25 of the LC states: “*The employer can not practice any discrimination, direct or indirect, on grounds of lineage, age, sex, sexual orientation, marital status, family status, economic situation, education, or social origin, genetic inheritance, reduced capacity for work, disability, chronic illness, nationality, ethnic origin or race, place of origin, language, religion, political or ideological beliefs and union membership*”. Also “*Do not constitute discrimination the actions that constitute one justifiable requirement for the exercise of professional activity, because of the nature of the activity in question, or of the context of its implementation, but, in all cases, the objective must be legitimate and proportional*”. This applies, for example, if someone wants to produce a film with only female actresses. Thus, is legitimate to discriminate the male actors in the castings, because of the nature of the film in question.

25. Article 27° of the Portuguese Labour Code – *It doesn’t constitute discrimination, a legislative measure of limited duration which benefits a determined group that is in disadvantage, to ensure the exercise, on equal terms, to the rights provided by law or to correct situations of discrimination that persists in social life.*

26. Moreover the LC transposed the European Directives on non-discrimination based on article 13 ECT³: Directives 2000/43/EC of 29th June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin; Directive 2000/78/EC of 27th November 2000 establishing a general framework for equal treatment in employment and occupation;

² http://app.parlamento.pt/site_antigo/ingles/cons_leg/Constitution_VII_revisao_definitive.pdf

³ Article 19 Treaty on the Functioning of the European Union (TFEU) after Lisbon Treaty entered into force on 1st December 2009.

and Directive 2002/73/EC of 23rd September 2002 amending Council Directive 1976/207/EEC on the implementation of the principle of equal treatment for men and women as regards access to employment, vocational training and promotion, and working conditions.

27. Law 37/2006 dated 9th of August regulates the exercise of the right of freedom of circulation and residence of the EU citizens and the members of their families inside the national Territory and contains rules which ratio is connected to the protection of the right to work, to education, to health, to social security and to the protection of motherhood (articles 7, 9, 14, 15, 18, 19, 20 and 23 of Law 37/2006/ articles 6, 7, 9, 10, 11, 12, 13 and 14 of the Covenant).

28. Law 23/2007 dated 4th July regulates the entry, stay departure end deportation of citizens who are third country nationals. In what concerns the protection of the right to work (articles 6 and 7 of the Covenant) it regulates the concession of visas for temporary stay to the effect of exercising a temporary professional subordinated activity (article 59), independent or for entrepreneur immigrants (article 60). It also regulates the issuance of temporary residence permits with and without visa exemption (articles. 88, 89, 122.1, n) and p) and 123) and the issuance of permanent stay permits (article 80). It regulates the issuance of residence permit to long stay residence permits in another EU member State titulars (article 116, par. 1, a) and b). The long stay resident status is also regulated (article 125).

29. The Article 5 of the Administrative Procedure Code states the rule that public authorities or public institutions whether they are national or local, are also forbidden to act with citizens under racial discrimination criteria.

30. Public employment and the position of civil servant are also subject to the guarantees of equality and non-discrimination, pursuant to article 5 of Law 99/2003.

Measures to eliminate discrimination

I. Activities undertaken by the Office of the Ombudsman

31. In addition to information provided in the Common Core Document, the Portuguese Office of the Ombudsman (Provedor de Justiça) aims at defending and promoting the citizen's rights, freedoms, safeguards and legitimate interests by appreciating, without power of decision, complaints concerning acts or omissions on the part of public bodies and issuing recommendations in order to prevent or make good injustice (Article 23 of the Portuguese Constitution). The actions of the Ombudsman are independent of any acts of grace or legal remedies provided for in the Portuguese legal system.

32. Being accessible to the whole of society, including de most vulnerable groups such as children and elderly, the Office of the Ombudsman intervenes to ensure that competent entities take action and adopt the proceedings which best guarantee citizen's rights and fundamental freedoms.

33. In what concerns specifically the defence of the rights of children and elderly, it is important to mention the existence of specific channels to accede to the Ombudsman, which are the two free telephone lines with personalized response created respectively in 1993 and in 1999 to deal with complaints arising from these two groups: Green Line "Messages from Children" and the Line "Elderly Citizen" upon reception of the complaint, the lines contact the public and/or private relevant entities, in order to collect information and search a solution for the case. In easy situations they can limit themselves to inform the claimant or to lead her/him to the competent entity. For the more complex cases a file is opened at the Ombudsman's Office.

34. In 2004, those lines were placed under the coordination of a Project Unit created to carry out the issues related with children, people with disabilities and women. Recently this Project Unit has been replaced by a new Child, elderly and Disability Unit – which is still being implemented – and which is under direct dependence of an Adjunct Ombudsman. This new Unit, as the former, deals with multiple activities, such as the coordination of the lines, the instruction of the complaints, the

cooperation with other entities in the national and international fields and the promotion and dissemination of human rights and of the role of the Ombudsman in what concerns their protection. It has to be said that, although not expressly included in the new Unit, the matter of gender equality is also under dependence of the Adjunct-Ombudsman.

35. The Ombudsman has issued a number of recommendations concerning the implementation and guarantee of the rights of different groups, addressed to the organs competent to alter the legislation or to correct unjust acts committed by public powers, of which we highlight the following:

i. Foreign citizens:

36. 2001. Under a complaint for refusal to treat an African citizen under the National Health System (SNS) legally residing in Portugal since 18 years, regular also under the tax administration and the social security, as the hospital alleged the lack of prevision, of assistance to extra-EU citizens, without a bilateral agreement with Portugal, the Ombudsman addressed to the Ministry of Health. As a result, Portugal recognizes the right of migrants to access the National Health System. The law ensures access to health care for all citizens regardless of their legal situation in the national territory or in their country of origin as states in the ordinance n.º 25360/2001, dated 12 December.

37. 2003. After a complaint grounded in the refusal of the concession of social support to students from Eastern Europe, the Secretary of State for the Educational Administration issued an ordinance to each Regional Education Direction, in the sense of ensuring, at the school basic level, the access to the school social action by the children of immigrants, regardless their nationality or even an existing bilateral cooperation framework.

38. 2004. Cases of refusal of registry as unemployed of foreign citizens whose processes for prorogation or renewal of their permanence/residence titles were pending were recorded. These refusals excluded them of acceding to the unemployment allowances. Through the intervention of the Ombudsman addressed to the Employment and Vocational Training Institute (IEFP) and the Social Security Institute (ISS), and the situation has been overtaken, and the registration was accepted against the remittal of a proof of the existence of the renewal processes by the Aliens and Borders Service.

39. 2005. In front of numerous complaints related to the refusal of attribution of family and solidarity allowances to foreign citizens, the Ombudsman addressed to the Ministry of Labour and Social Solidarity a recommendation bringing the rules on family and solidarity benefits for all foreign nationals with regular permanence in Portugal, instead of covering only those holding residence permit as it was ruled by the former legislation (Decree Law 41/2006, of 21st February, amending the Decree Law 176/2003 of 2nd August on providing social allowance to minors and also on granting funeral and burial allowance; Decree Law 42/2006, of 23rd February that amends the Decree Law 283/2003 of 21st May, on providing income support to deprived persons).

40. 2007. In front of the case of a foreign citizen regularly residing in Portugal since many years, the Ombudsman addressed to the Ministry of the Science, Technology and Superior Education, a recommendation aiming at changing the legal framework in order to allow the access to higher education social services benefits for foreign students with permanent residence authorisation or holders of long term residence status. This measure took effect on 1st September 2009 (Decree-Law no. 204/2009, 31st August) and will extend to foreign students from the 2009/2010 school years on.

ii. Children, elderly, people with disabilities:

41. 2003. Following a sequence of complaints related to begging minor children, the Ombudsman called the attention to the special difficulties of the intervention of the competent public powers and alerted for the absence of a strategy that might support an articulated, dissuading and effective intervention. He also appealed that the action of public powers would not only be directed to the protection of the minor but also to penal liability of the offender.

42. 2003/2004 and 2008. The Ombudsman inspected the institutions which receive old people in the Autonomous Regions of Azores and Madeira in the sense of verifying the causes of the institutionalization of elderly, and the execution of their rights (for example, autonomy, mobility, healthy food, health care), evaluating the state and adequacy of the installations and appreciate procedures, rules and administrative aspects. Following these inspections, reports containing various recommendations were addressed to the competent public entities. In both cases, the formulated recommendations deserved generally the concordance of the Administration⁴.

43. 2008. In front of the difficulties arising, throughout the years, in what regards the concession of the special education frequency benefit (namely the length in the appreciation of the requests and the delays in the payments), the Ombudsman addressed to the Secretaries of State of Education and of Social Security, a recommendation aiming at guaranteeing the intervention in each regional centre of Social Security of multidisciplinary teams, the interdiction of the intervention in the proceedings of Doctors having an interest in the decision, and the filling of the pertaining documentation by the schools in a timely fashion, in order to allow a timely decision. This recommendation also was followed.

iii. Women:

44. Among other aspects an important role of the Ombudsman has been assumed in the protection of maternity, of which are examples, the following cases:

45. 2001. The Ombudsman suggested to the Government the study a different way to consider the contributing periods of the female workers to the effect of granting the maternity allowance, in the case of the transition of the worker from the public to the private sector during pregnancy. Subsequently, Decree-Law 117/2006, dated 20th July considered the adduced concerns, however only for one part of the worker mothers. Even so the recommendation was discontinued since all the claimants saw their pretensions satisfied.

46. 2003. The Ombudsman formulated successfully a suggestion to the Government aiming at the abolition of the distinction between the administrative agents with a temporary legal link and the female workers of the private sector, being that for the first group the extinction of the working link during the maternity licence implied the loss of remuneration in the subsequent period.

47. The intervention of the Ombudsman was also decisive to accelerate the approval and publication of Decree-Law 77/2005 dated 13th April, related to the determination of the amounts due as maternity allowance, in the case of option for the enlarged 150 days licence – a legal text which absence endangered the right of option legally consecrated.

iv. Detainees:

48. It is a group to which the Ombudsman devoted a particular attention, without ignoring the specificities of certain groups of detainees, such as the pregnant detainees or detainees with children and the foreign detainees.

49. The work of the Ombudsman in these matters has developed overall in the area of the inspective powers, which pertain to the Ombudsman relating to the civil and military prison facilities. Until now, three general inspections took place – in 1996, 1998 and 2002 – of which reports emerged containing various recommendations addressed to the competent public entities⁵

50. In the Economic, Social and Cultural Rights, an important role of the Ombudsman appears, in the safeguard of the right of detainees to health, which rises from a principle of equality of

⁴http://www.provedor-jus.pt/restrito/pub_ficheiros/LaresIdosos.pdf
http://www.provedor-jus.pt/restrito/pub_ficheiros/LaresIdososMadeira.pdf
⁵http://www.provedor-jus.pt/restrito/pub_ficheiros/RelPrisoos1996.pdf
http://www.provedor-jus.pt/restrito/pub_ficheiros/RelPrisoos1998_II.pdf
http://www.provedor-jus.pt/restrito/pub_ficheiros/RelPrisoos2003.pdf

treatment with the free citizens and of the recognition of their condition of users of the National Health system, as well as of the importance of the articulation between prison institutions and the National Health Service.

51. For example, in the field of drug-dependence and infectious diseases, the Ombudsman specially insisted in the necessity of a correct articulation between the infectious diseases services of the civil hospitals and the prison health services, in order to allow for an adequate follow-up after the release and the continuity of the care, also for the protection of public health. In many occasions, the Ombudsman also insisted on the need to study the good practices successfully realized in other countries, as to the adoption, in prison level, of the same instruments that exist in free environment. This recommendation was followed by Law 3/2007, dated 16th January.

II. Data and figures on the effectiveness on specific anti-discrimination measures (immigrants, ethnic minorities, people with disabilities, homeless)

52. During this period, several special plans have been presented, namely the 1st National Action Plan for the Integration of People with Disabilities or Impairments 2006-2009 (PAIPD) (Resolution of the Council of Minister no 120/2006, of 21st September), the National Action Plan for Inclusion 2008-2010 (PNAI) (Resolution of the Council of Ministers no 136/2008, of 9th September)⁶, the Plan for Immigrant Integration (Resolution of the Council of Ministers no 63-A/2007, of 3 May) and the 3rd National Plan for Equality – Citizenship and Gender 2007-2010 (Resolution of the Council of Ministers no 77/2007, of 4th June).

53. The National Action Plan for Inclusion (2008-2010)⁷ envisage some specific measures aimed at the most vulnerable groups, such as immigrants, elderly, ethnic minorities, homeless. The Plan is the preferred instrument for cross-cutting planning, strategic and operational coordination of policies and measures designed to address the problems associated with these groups. Although they do not represent the largest groups in terms of exclusion in Portugal, the intensity of their situation and the problems associated with these groups are extremely relevant.

i. Immigrants

Data and figures

54. In recent decades, Portugal has recorded an accentuated growth in the population of foreigners. In 1995, 168,316 foreigners were legal residents or authorised to stay in Portugal, four years later there were 190,896 foreigners and, in 2007, 435,736 foreigners (240,096 men and 195,640 women) were residing in Portugal, corresponding to 401,612 with residence permits, 5.741 with permanence permit extensions and 28,383 with long term visa extensions.⁸

55. A high percentage of immigrants have low levels of schooling (lower secondary education), especially those coming from South America and Africa. Immigrants from Europe have, in terms of percentage, higher levels of qualifications (upper secondary education and higher education)⁹. In terms of integration in the labour market, Portugal has made progress with regard to the participation of immigrants as compared to some EU countries. In 2007, 77.9% of the foreign population was active. The employment rate was 68.5% and the unemployment rate was 12%. The inactivity rate was 22.1%¹⁰.

56. However, when compared with Portuguese citizens, it is evident that they participate in the unqualified segment of the labour market, which reveals inequalities while accessing more qualified

⁶ Followed by the National Action Plan for Inclusion 2006-2008 (PNAI) (Resolution of the Council of Ministers no 166/2006, of 15 December)

⁷ www.pnai.pt

⁸ SEF, Statistics of the immigrant population in Portugal.

⁹ INE, Census.

¹⁰ INE, Employment Survey

jobs¹¹. Unemployment also affects nationals and non-nationals in a different manner. The disparity in the unemployment rate between Portuguese nationals and non-EU nationals was 4.2 percentage points in 2007 (as compared to 5.3 percentage points in the EU)¹². The difficulties of encountering solutions, the absence of family networks, difficulties in accessing housing and language difficulties are other factors that, in Portugal, tend to place immigrants in situations of vulnerability and social exclusion.

57. The dialogue with the countries of origin has been a concern within the public migration policies. The intercultural model advocated by the Portuguese integration policy become particular operational with the definition and implementation of the National Plans for the Integration of Immigrants. Portugal developed, for the first time, an action plan for immigrant integration, based on a holistic approach, which is one of the most important tools to realise the objectives of the National Strategy for Social Protection and Social Inclusion 2008-2010.

58. The first Plan, implemented between 2007 and 2009¹³, involved 13 Ministries in the implementation of 122 measures, distributed through 20 thematic areas. The I Plan's final evaluation¹⁴ showed the implementation of around 81% of its measures.

59. In order to better welcome and integrate migrants and migrants' workers, Portugal has created migrant tailored services, conveying not only a positive vision of migration, but, also, reflecting the official discourse on the protection of human rights, values and freedoms.

60. Before entering in the measures/responses description, one must start with the creation of the **High Commission for Immigration and Intercultural Dialogue (ACIDI)**, as the main provider of the previously mentioned services.

61. ACIDI is a public institute with the mission to collaborate in the conception, implementation and evaluation of public policies, both cross-cutting and sector-specific, relevant for the integration of immigrants and ethnic minorities, as well as promoting dialogue between various cultures, ethnicities and religions¹⁵.

62. ACIDI provides information in order to promote immigrants' rights and fulfilment of duties, including information leaflets, national and local immigrant support centres and an information phone line. Additionally, Portugal, throughout ACIDI, has been defining several relevant measures for raising public awareness on migrants' welcoming and integration.

63. In order to minimise inaccuracy and time-consuming procedures by the public administration services, contributing, thus, to increase migrants trust in the system, ACIDI created national and local support centres, known as **One-Stop-Shops**, based on the general recognition that service dispersion is one of the reasons why immigrants have a lack of information regarding their rights, duties and necessary procedures.

64. Therefore, in 2004, the Portuguese Government, through ACIDI, opened two One-Stop-Shops, officially named **National Immigrant Support Centres (CNAI)**, in Lisbon and O'Porto. These centres were created exclusively for immigration issues; these centres bring together, under the same roof, a number of governmental services and specific support offices related to immigration. The centres involve six branches of five Ministries (Health, Education, Work and Social Security, Justice

¹¹ OCDE, SOPEMI, *International Migrations Outlook*, 2006.

¹² Eurostat, *Labour Force Survey*.

¹³ Created by Council of Ministers Resolution nr 63-A/2007, dated 3rd May, reflects the aims and pledges of the Portuguese State to provide an integrated, comprehensive and all embracing response so as to receive and integrate immigrants who turn to Portugal as their host country.

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

¹⁵ ACIDI's activities are based on the seven key principles of Equality, Dialogue, Citizenship, Hospitality, Interculturalism, Proximity and Initiative. Its mission, foreseen in the Decree-law nr. 167/2007, dated 3rd May, includes, among other relevant competences, to contribute to the improvement of migrants' living and working conditions in Portugal, in order to better promote their full integration with dignity, with the same opportunities of national citizens.

and Internal Affairs), and provide specific support, on legal advice, family reunion and labour market integration, among other issues.

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

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

67. The Portuguese CNAI were the role model for the Project "One-Stop Shop: A New Answer for Immigrant Integration" (JLS/2006/INTI/148), coordinated by ACIDI¹⁶ and financed by the European Union.

68. Along with CNAI, ACIDI has provided a **network of Local Immigrant Support Centres (CLAII)**, located all over the country. These Centres are decentralised responses for welcoming and providing information and support, which seek to assist in responding to the questions and problems posed by immigrants, with the capacity to interact with local structures and the mission to go beyond information and support the multifaceted process of welcoming and integrating immigrants at a local level.

69. The CLAII are the result of partnerships between ACIDI and the following organisations: local municipalities, immigrant associations, non-governmental organisations, local development associations, parishes and other private law non-profit organisations. At the moment, there are 87 Centres in functioning.

70. In order to overcome language barriers posed by the inexistent or insufficient knowledge of the Portuguese language by immigrants, ACIDI created the Telephone **helpline "SOS Imigrante"** (SOS Immigrant). This service provides information related to the welcoming and integrating process, work and social rights included, with attendance in 9 languages (Portuguese, Creole, English, French, Spanish, Russian, Ukrainian, Byelorussian and Romanian). For other languages, the helpline resorts to the Telephonic Translation Service (STT), available for more 50 languages/dialects.

71. The **Telephonic Translation Service (STT)** was created in June 2006, by ACIDI, in order to allow migrants that don't speak Portuguese, to be understood by the service's technicians that receive them, thus tackling all situations where communications barriers may lead to misconceptions and, eventually, to involuntary discrimination situations.

72. The *media* play also an important role on migration related subjects, including migrant and their families' rights to protection and support. Therefore, ACIDI has created a TV Programme, named **"US" (NÓS)**, a weekly magazine of one hour (with 20 minutes daily blocs), dynamic, positive, which engages in the integration and welcome of the communities that have chosen Portugal as their country of destination. It aims to create a bridge of information across civil society, by means of the presentation of interviews and debates on actual themes, informative pieces on the rights and the duties of citizens coming from immigration, as well as establishing links between immigrants associations and services of the civil society and the State.

73. Also, in order to provide accurate information and fight misleading propaganda, the **Immigration Observatory** plays a key role. Within ACIDI, the Observatory seeks to deepen

¹⁶ Further information on this Project <http://www.oss.inti.acidi.gov.pt/index.php?lang=en>.

knowledge on the reality of immigration in Portugal, in order to be able to define, implement and evaluate effective policies for the integration of immigrants¹⁷.

74. Besides these specific services, ACIDI produces also information materials in several migration related subjects, focusing on migrants' rights and duties, avoiding, like in its entire informative goal, misleading propaganda relating to immigration. These IEC materials are produced in three languages (Portuguese, English and Russian) and besides widely distributed, free of charge, within the National and Local Centres for Immigrants Support, involving also immigrants' organizations and other stakeholders like governmental services, they can be downloaded from ACIDI's website¹⁸.

75. In order to guarantee immigrants' access to Portuguese courses, it was created, in 2008, the governmental programme "**Portuguese for Everyone**" (**Português para Todos – PPT**), promoted by the Presidency of the Council of Ministers, the Ministry of Education and the Ministry of Labour and Social Solidarity. Previous to PPT, was the Programme "**Portugal Welcomes**" (**Portugal Acolhe**), created in 2001, which also provided Portuguese courses to immigrants.

76. The renewal of "Portugal Welcomes" lead to the creation of new training referrals, within the European Language Common Referral Framework, for Portuguese as second language, elementary used (level A2), produced jointly by the Ministries of Education and Labour, as well as the introduction of 4 training units of Technical Portuguese. These for 4 units are directed to the following activities: trading, hotels and restaurants; beauty care; civil construction and civil engineering.

77. These certified Portuguese courses are provided free of charge for immigrants, allowing access to nationality, to long term residence permit and/or long-term residence status (level A2).

78. In 2008 and 2009 were accounted 7,213 immigrants in courses, free of charge, with the total amount of more than 606,000 training hours.

Table 5. Annex - Overall budget Portuguese language courses for foreigners

Table 6. Annex - Financial implementation - Costs paid

Table 7. Annex - Number of trainees by country

Table 8. Annex - Number of trainees by continent

>> See item 15, nº 2 of the report.

ii. Ethnic Minorities

79. Individuals belonging to minorities are regularly exposed to a precarious professional integration, the imposition of the dominant culture, without respect for differences, processes of segregation and isolation with regard to networks of social support, for various reasons that often have to do with mutual difficulties of socio-cultural adaptation. The growing presence of such groups in the country is also associated with the entry of new immigrant fluxes from Eastern Europe, along with more traditional minorities such as the Roma community. It has been estimated that the Roma population in Portugal varies between 40 and 50 thousand individuals¹⁹ of which about 38% are younger than 15 years of age²⁰ and about 16% reside in precarious housing conditions²¹. Many of these situations have resulted from local strategies but also arise due to a lack of socio-cultural adaptability

¹⁷ Further information on the Immigration Observatory available at <http://www.oi.acidi.gov.pt/modules.php?name=Content&pa=showpage&pid=21&newlang=english>.

¹⁸ www.acidi.gov.pt

¹⁹ ERCI (2002), *Segundo Relatório sobre Portugal - European Commission Against Racism and Intolerance*, adopted on 20 March 2002, Strasbourg, 4 November 2002, p. 23; MACHIELS, T. (2002), *Garder la distance ou saisir les chances. Roms et gens du voyage en Europe occidentale*, Réseau Européen contre le Racisme, p. 11; SOS RACISMO (2001), *Ciganos, Números, Abordagens e Realidades*, Lisboa; CASTRO, Alexandra (2007) "Dos Contextos Locais à Invisibilização Política: discussão em torno dos ciclos de exclusão habitacional dos ciganos em Portugal", in *Revista Cidades: Comunidades e Territórios*, No. 15.

²⁰ BASTOS, José Gabriel Pereira; CORREIA, André Clarezza; RODRIGUES, Elsa (2006), *Sintrensos Ciganos. Uma abordagem estrutural-dinâmica*, Lisbon, CEMME/ Sintra Town Hall, p. 115.

²¹ CASTRO, Alexandra (2007) "Dos Contextos Locais à Invisibilização Política: discussão em torno dos ciclos de exclusão habitacional dos ciganos em Portugal", in *Revista Cidades: Comunidades e Territórios*, No. 15.

on the part of resident communities, the majority population, and ethnic Roma. This generates preconceptions and stereotypes that prevent such citizens from breaking free from the situations of vulnerability, poverty and exclusion in which they live.

80. With regard to Roma communities, in order to contribute towards promoting inclusion it is important to mention that these communities have access to an important set of general programmes and measures that are aimed at individuals and groups living in situations of poverty and exclusion. These include the Integration Social Income, housing programmes, measures for social protection and school social action. In the same way, Roma communities also benefit from some of the measures outlined in the Plan to Integrate Immigrants.

81. But the importance of adopting additional measures especially aimed at their communities has been recognised. The third priority of the National Action Plan for Inclusion 2008-2010 contemplates a mechanism to monitor the degree of integration of these communities, with a special emphasis on education, health, employment and housing. It is co-ordinated by the High Commission for Immigration and Intercultural Dialogue.

82. There is an **Office to Support Roma Communities**, created by the High Commission for Immigration and Intercultural Dialogue in 2007, to develop a set of activities aimed at the promotion and social inclusion of Roma communities, in articulation with several entities working in this area. The Office has set up a Working Group with 6 elements belonging to Roma communities, experienced in mediation and working in joint projects. This will ensure that intervention measures are more effective and representative of the interests and perspectives of the Portuguese Roma.

83. Local intervention efforts with Roma communities are equally essential, and therefore this working group has developed several actions to mediate conflicts, both in neighbourhoods and at the level of relations with public entities. Efforts have also been made to implement training initiatives and to increase awareness about active citizenship amongst social and educational agents and members of the Roma communities in the most sensitive areas. On the other hand, a set of 16 projects for intervention has been accompanied within the framework of the Choices Programme.

84. These projects are distributed all over the country and one of the target audiences is children from Roma communities.

85. The Office to Support Roma Communities has also launched in 2007 a website dedicated to Roma communities (www.ciga-nos.pt) (translated as follow us "Roma!"), and has published several studies and publications. The focus of this website is dissemination and sharing of information, creation of working nets, dissemination of field projects, promotion of a positive image of the Roma community and a better knowledge of their history and their culture. These measures aim at reinforcing the interaction between the different participants in the integration of Roma communities, trying to find to best solutions and how to implement and disseminate them.

86. The High Commission has also created last year, with the support also of the Institute of Social Security, a **Pilot Project for Municipal Mediators** to provide intercultural training (14 October 2009 to 15 February 2010) - in the fields of Mediation, Public Institutions Functioning and Communication - to create fifteen Roma municipal mediators and to insert them in local municipalities and in its Roma inclusion related services so that they can establish a close relation with local services and organisations and local Roma communities. At the end of its first year of implementation, there will be an evaluation report to assess obtained results that should indicate this Project added value to the improvement of Roma communities' situation in Portugal and to the need to implement this Project in other municipalities.

87. Moreover, special and practical measures adopted in the social, economic and cultural fields, must be mentioned. **Programa Escolhas (Choices Programme)**²² is a mainstream

²² The work done by Programme Choices has been internationally acknowledged, receiving recognition as a best practice in several occasions: in 2003, it received the European Union Award on Criminality Prevention; in 2007, it was referred as a good practice in the

governmental programme, created in 2001 and managed and coordinated by the High Commission with the aim of promoting the social integration of children and young people from disadvantaged social backgrounds - many of which are immigrant descendants and members of Roma communities, but also includes Portuguese. The general objective of this programme is to promote the equality of chances and the social inclusion of the beneficiaries from the programme. Presently in its fourth phase (2010-2013), the Programme supports 130 local projects (66 targeting Roma Communities) with a total budget of 38 million Euros. These projects are managed by local partnerships that involve 1003 local partners. The projects involve, local governments, Non-profit Organizations (IPSS) and the Commissions for the Protection of Children and Youngsters.

>> See article 15, item 51 on Relocation Programmes

iii. People with disabilities

88. Bearing in mind the principle of non-discrimination within CPR, LC and other ordinary legislation mentioned before, within the scope of policies for people with disabilities, measures have been focused on the following key aspects of intervention: accessibility; education, qualifications and employment; social protection; facilities and services.

89. The National Institute for the Rehabilitation (INR)²³ is the national body competent to promote this policy in partnership with other public entities and NGOs. The INR operates in the Ministry of Labour and Social Solidarity, to plan, execute and coordinate the national policies aimed to promote the rights of people with disabilities.

90. The CRP establishes the universal principle of equal rights and states that '*Those citizens who are physically or mentally disabled have the same rights and obligations established by the Constitution for other citizens*'. Articles 24-27 establish rights to life, integrity, freedom from inhuman treatment, citizenship, privacy, legal protection from discrimination, and freedom and security.

91. The framework **law n° 38/2004 of 18th of August 2004**²⁴ defined the general basis of the juridical system for prevention, habilitation, rehabilitation and participation of people with disabilities. The mainstreaming principle was expressly adopted, especially in Article 3.

92. **Law n 46/2006 from 28th of August**²⁵ prohibits and punishes discrimination based on disability or health. This Law applies to economic, social and cultural individual rights and defines the concept of direct and indirect discrimination. It also reinforces the application of laws that protect people with disability from discrimination and establishes the inversion of the burden of proof. NGOs representing people with disability interest and rights are entitled to represent and defend them in court.

93. **The Action Plan for the Integration of the People with Disabilities or impairments (2006-2009)**^{26 27} defines the measures to be adopted and implemented by the government in different areas of general policy. It aims to promote the improvement of quality of life and to guarantee access to public goods and services. It was created a working group that will monitor the implementation of the Plan.

94. Amendment to the Council of Minister Regulation (**Resolution of the Council of Ministers n° 186/2005**)²⁸ affirms that the submission of new draft laws affecting the inclusion or participation of people with disabilities must be subject to a disability impact assessment.

European Union "Handbook for Integration"; it was equally considered a good practice in the first "International Report on Criminality Prevention and Community Safety", produced by the Centre for the Prevention of Crime (ICPC), with headquarters in Canada.

²³ <http://inr.gov.pt>

²⁴ http://www.inr.pt/bibliopac/diplomas/lei_38_2004.htm

²⁵ <http://www.dre.pt/pdf1sdi/2006/08/16500/62106213.PDF>

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

²⁷ Resolution of the Council of Minister no 120/2006, of 21 September

²⁸ <http://www.dre.pt/pdf1s%5C2005%5C12%5C233B00%5C69456945.pdf>

95. **Decree-Law 163/2006 of 8th August** defines conditions for accessibility in construction of public spaces, public facilities and public buildings and houses, and surrounding areas. Law No. 33/2008, of July 22nd, establishes measures to promote access to information on specific goods for sale to the public for people with visual impairments and provides custom monitoring and information system in Braille.

96. More recently, the Budget allocated by the **Human Potential Thematic Operational Programme**²⁹ under the National Strategic Reference Framework 2007/2013 (POPH/QREN) will focus on the improvement of the quality of life of people with disabilities, namely the Qualification, Support to socio-professional integration, Quality of Services and Organizations (Programme Arquimedes), Accessibility at central and local level and Research, raising awareness and good practices.

Data and figures:

97. According to the 2001 **National Population Census**³⁰, 6.1% of the total population has at least one type of self-reported disability. However, **QUANTi study**³¹ (a 1993-1995 survey) found that 9.2% of the population had some type of disability – a figure close to that determined by studies conducted in other European Union countries.

Data on employment indicate that:

98. According to Census 2001, 71% do not work or perform an economic activity, 55,2% lived on social assistance (Census 2001) and they had a higher level of unemployment 9,5% comparing with 6,8% of general population. In 2001, the unemployment rate of people with disabilities was 9.5% compared to 6.8% for the total of the resident population.

Data on education indicate that:

99. The Portuguese education system is organized according to diverse structures and programmes led by different state and private institutions. The Ministry of Education coordinates the education policies independently from the institutions that are part of it. The legal framework of special needs education at basic and secondary levels is sustained by the provisions set in Law 3/2008.

Data on accessibility indicate that:

100. The 2007 **National Plan for the Promotion of Accessibility**³² incorporates measures of physical accessibility in the built environment, transport and information and communication technologies (ICT) and supporting technologies (TA). This plan will take place in two periods: in 2010 and 2011-2015.

101. A Railway Transport Cooperation Protocol has been agreed for the phased elimination of obstacles in railway transport (e.g. ramps, lifting platforms, WC adaptations, sites reserved for wheelchairs, signalling using sounds and subtitles, new carriages with good accessibility).

102. The 'Two for One' Agreement aims at a Tariff Reduction on long distance trains to allow persons with an incapacity rating of 80% to be accompanied (with a free ticket). In 2006, there were 6,173 trips by passengers accompanied by a third person, a 20% rise over 205 (5,090). Reported data to November shows a year-on-year increase.

103. CARRIS has 744 buses, 220 (30%) equipped with wheelchair ramps. During rush hours, 639 buses are used on 6 routes and of which 49 have wheelchair ramps.

²⁹ <http://www.poph.qren.pt/>

³⁰ <http://www.inr.pt/content/1/117/informacao-estatistica>

³¹ <http://www.inr.pt/content/1/117/informacao-estatistica>

³² <http://www.inr.pt/content/1/3/pnpa>

104. The Project 'Accessible Beach – Beach for Everyone' aims to make Portuguese beaches more accessible to persons with motor difficulties. Accessibility to beaches is required by DL 163/2006, of August 8. There has been a significant increase in the number of accessible beaches (an annual increase of 57.1% in 2006 and 24.6% in 2007).

105. The **MeAC e-accessibility survey results for Portugal in 2007**³³ showed that: 3 out of 5 of the selected public web sites passed the automatic evaluation, but none passed both the automatic and manual evaluations. Only 1 out of 6 of the sectoral/commercial websites passed the automatic evaluation.

106. The main emergency number (112 or other) was not directly accessible by text telephone. Of the two main mobile telephony operators, neither provided eAccessibility-related information via its website. Of the two main landline telephony operators, one provided eAccessibility-related information via its website. The two main public TV channels (operated by the same broadcaster), in 2007, provided 10.8% and 1.6% of subtitled programs (although it is not clear how many national language programmes were subtitled). The two main commercial broadcasters provided 5.3% and 6.84% and some programs with signing. Of the two main retail banks, one had installed a large proportion of talking ATMs. The bank provided information on the location of the "talking" ATMs via its website.

Data on poverty and incomes indicate that:

107. According to the information set out in the National Action Plan for Inclusion 2005-2008, disabled people are mostly inactive economically (71%) and only 29% have an economic activity.

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

109. It is important to stress the number of people with disabilities 'cared for by their families'. These factors are considered as being one of the greatest vulnerabilities of this group in relation to the overall population. Persons with disabilities and their families are the most vulnerable to poverty.

Data on public spending indicate that:

110. The available data for 2008 indicates that €354 million were spent in support of people with disabilities in Portugal: Vocational training and employment (€5 million); Technical Aids (€125 million); Cooperation Protocols with Social Security Institute (€110 million); Social Subsidies (€97 million); POEFDS (equipments) (€6.7 million); PARES+POPH (€60 million); Support to Sports Activities (€1.3 million); Subsidies and Supports to transportation (€1.5 million). There are no final data from Education and Health sectors. In 2006, disability benefits accounted for 10% of all benefits expenditure (both cash and in kind benefits) compared to an EU27 average of 7.5% (European System of integrated Social Protection Statistics)

Social protection³⁴

111. Special disability protection takes the form of cash benefits, especially as regards compensation for family charges, protection of disability and dependency and maternity under the three new subsystems. As example it is possible to identify several benefits in the various fields of social security system, as the following: Family benefits for descendants with disabilities: the award of benefits depends on the contributions registered in the insured person's name. People covered by non-contributory social security scheme are also eligible for these benefits, if they satisfy the required means conditions.

³³ <http://www.eaccessibility-progress.eu/country-profiles/portugal/levels-of-eaccessibility-in-portugal/>

³⁴ Information about pensions and benefits available for people with disabilities is available at www.inr.pt, www.seg-social.pt and www.gep.mtss.gov.pt

112. Maternity Benefits: the benefits provided under the maternity protection scheme are intended to offset the loss of income of working parents caring for descendants with disabilities.

113. Dependency benefits: the benefits provided are as follows: attendance allowance and dependency supplement.

114. Benefits in kind: By means of co-operation protocols Social Security provides financial and technical support to non-profitable institutions, which provide services for the population with disabilities, such as residential homes, occupational activity centres, and early intervention centres aimed at children from 0 to 6 years old. The residential homes accommodate youngsters older than 16 and adults, who are either temporarily or definitively hindered from living with their families. The occupational activity centres are aimed at the disabled older than 16 to stimulate the development of their skills, mainly of those who cannot find a job.

115. Financing is paid directly by the state to the host establishment, following the conclusion of an individual agreement (co-operation protocols). Beneficiaries pay an amount towards cost calculated on the basis of their family income.

Rehabilitation and re-training

116. The Employment and Vocational Training Institute (IEFP)³⁵ is the national body with responsibility to implement the vocational rehabilitation policy and labour market integration of disabled people. Preferential employment and quotas

117. The **Decree Law 29/2001, of February 3**³⁶ (Employment Quota System) defines positive measures to promote the employment of people with disabilities in central and local public administration. There is a 5% quota for people with disability (motor, visual, hearing, mental or cerebral palsy) with a degree of incapacity greater than or equal to 60%.

118. **Law 38/2004**³⁷, dated 18 August defines the general bases of the legal system for prevention, habilitation, rehabilitation and participation. Article 28 states that 'according to their size, companies should contract people with disability by means of a work contract or other forms of employment for a maximum quota of 2% of their workforce'" The LC recognizes several rights: the right to flexible working hours; not to perform overtime or night work if this is dangerous for health and safety reasons. According to the Code, laws or collective agreements may introduce more favourable provisions for the protection or integration of the worker with disability. Nevertheless, in the recent study on industrial relations (Green Book /MTSS2007) found only 6 out of 65 collective agreements, in force in 2005, establishing measures of positive action.

Long-term support and care

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

120. Provision includes: Day care centres (centro de dia) for the elderly; Sheltered workshops (centro de actividades ocupacionais) for severely disabled persons; Centres for social and occupational measures (forum sócio-ocupacional) for persons with a mild mental illness; Nursing homes for temporary stay (lar temporário) of disabled children; Provision of technical aids; Premature

³⁵ <http://www.iefp.pt/Paginas/Home.aspx>

³⁶ <http://www.inr.pt/content/1/73/sistema-quotas-emprego>

³⁷ <http://www.inr.pt/content/1/7/direitos-fundamentais>

intervention (Intervenção Precoce) integrated aid measure combining education, health and social action for children up to 6 years old with disabilities.

121. Allowance for assistance by a third party (subsídio por assistência de terceira pessoa).

122. It was created the **National Network of Long Term Care, which** includes health and social security services and their articulation at local level. Its aim is to provide continuity levels and integrated care (convalescence, rehabilitative middle and long-term care), as well as palliative care for elderly and people living in situations of dependence.

>>See item15 of the Report, nº 2.

iv. Homeless

Data and figures

123. In Portugal, the overall numbers of homeless individuals are not known. However, the growing complexity of social exclusion has accentuated the visibility of the problems of homeless people, requiring adequate solutions for the shortcomings identified. Due to the greater attention that this problem has received in Portugal, it was launched, on 14th March 2009, the **first National Strategy for Integration of Homeless**.

124. The strategy holds upon a rather tide homelessness definition but it enhances every local network (where local homelessness plans must be developed) to design their homelessness diagnosis and action plans within a more broad framework, including prevention, intervention and follow-up measures.

125. It holds on a rights-based approach, including the right to housing and equal opportunities. The goals are framed upon two basis axes: 1) information; combat against discrimination, education; 2) qualification of intervention.

126. By the end of 2009, a questionnaire was sent to every local network in order to characterize the known homelessness situations.

127. Responses were received from 53 counties concerning homeless and houseless people, where the former corresponds to all the situations on the street overnight accommodation and unconventional (such as car, abandoned building) and the second to situations of emergency accommodation, downtown accommodation in temporary accommodation or pension or rented room.

128. With this questionnaire, it was possible to identify and interview 2.126 homeless people (1.777 male and 349 female).

129. This number doesn't represent the total homeless population in Portugal. However, it includes the answers of the main urban counties, including the seven considered priority, and so it was possible to work on this information and obtain a reliable sociographic picture of the homeless population in Portugal, as follows:

- Population mostly male (84%), about 60% are between 30 and 49 years;
- Nationality Portuguese - 82%;
- The majority of this population is isolated - 83%;
- The educational level is relatively low (31% completed the first cycle and 23% completed the second cycle);
- State housing - according to the questionnaires carried out, the housing situation prior to the collection of information, referred to most often to stay overnight on the street (32%) or in temporary accommodation centre (22%);

- Regarding the current housing in the whole of the two categories shown, about 48% are in this situation for more than 1 year.
- The reason for the current situation is linked to family breakdown (33%), unemployment or job loss (22%) and personal problems (21%).
- Around 28% is entitled to the Social Integration Income, and 11% of old age pensions or disability, about 25% does not enjoy any income and only 4% have income from salary.
- As the main problems identified: drug abuse (28%), alcoholism (19%) and mental health (11%), searching for occupation (around 17% of cases).

>>See item 50 of the Report

Article 3 of the Covenant – Non-discrimination based on gender

Dir. Q. 12 – What steps have been taken to eliminate direct and indirect discrimination based on sex in relation to each of the rights recognized in the Covenant, and to ensure that men and women enjoy these rights on a basis of equality, in law and in fact?

Dir. Q.13 - Indicate whether the State party has adopted gender equality legislation and the progress achieved in the implementation of such legislation. Also indicate whether any gender-based assessment of the impact of legislation and policies has been undertaken to overcome traditional cultural stereotypes that continue to negatively affect the equal enjoyment of economic, social and cultural rights by men and women.

i. Legislation

130. The CPR enshrines the principle of equality regardless of the sex of the persons and the promotion of equality between men and women as a fundamental task of the State.

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

132. Under Portuguese Law³⁸, direct discrimination is deemed to exist whenever, by reason of ascendancy, age, sex, sexual orientation, civil status, family situation, genetic heritage, reduced capacity for work, disability, chronic disease, nationality, ethnic origin, religion, political or ideological convictions or trade union membership, a person is subject to less favorable treatment than that given to another person who was or is in a comparable situation.

133. Indirect discrimination³⁹ is deemed to exist whenever a provision, criterion or practice, which is apparently neutral, may place people in a disadvantageous position in relation to others, on the grounds of ascendancy, age, sex, sexual orientation, civil status, family situation, genetic heritage, reduced capacity for work, disability, chronic disease, nationality, ethnic origin, religion, political or ideological convictions or trade union membership, unless the provision, criterion or practice in question is objectively justified for a legitimate purpose and the means to attain that purpose are necessary and appropriate.

134. Other factors of both direct and indirect discrimination are homeland, language, race, education, economic situation, origin or social status⁴⁰. Orders or instructions based on any of these factors, which cause harm to anyone, are considered discriminatory⁴¹.

135. The harassment of an employee or a job applicant defined as undesired conduct related *inter alia* with gender, occurring during the recruitment process, at work or during vocational training,

³⁸ Article 23, n.º 1, of the Labour Code, and Article 32, paragraph a) of n.º 2, of the Law 35/2004, of 29 July.

³⁹ According to n.º 1 of Article 23 of the Labour Code and paragraph b), n.º 2 of Article 32 of the Law 35/2004, of 29 July.

⁴⁰ Article 32, n.º 1, of the Law 35/2004, of 29 July.

⁴¹ Article 32, n.º 3, of the Law 35/2004, of 29 July.

with the purpose or effect of undermining a person's dignity or creating an intimidating, hostile, degrading, humiliating or destabilising environment, amounts to discrimination⁴². Any form of undesired verbal, non-verbal or physical conduct of a sexual nature, with the above-mentioned purpose or effect is in particular deemed to be harassment⁴³.

- Penalising discrimination

136. Breach of the provisions regarding equality is generally punished as a very serious administrative offence⁴⁴ and the convictions may be published⁴⁵. Currently, the Authority for Working Conditions - AWC⁴⁶ continues to prevent, monitor and punish gender discrimination.

- Monitoring and assessment

137. In 2007, the Government presented to the Parliament the Annual Report on the Progress of Equality between Men and Women in Work, Employment and Vocational Training 2005. Although mandatory since 2001⁴⁷, it had never been made before⁴⁸. Also, in 2009, it was presented the 2006/2008 Annual Report. Briefly it highlighted a strong growth in female employment alongside the persistence of a higher female unemployment rate compared to men; there is still a gender imbalance in sectors and occupations; the gender pay gap persists and is particularly felt at high skills levels, and women's access to the educational and training system is increasing steadily.

138. Since June 2007, the Commission for Citizenship and Gender Equality (CITE) can receive complaints in the area of equality and non-discrimination in work, employment and vocational training. It is the CITE that continues to offer mandatory prior opinions in cases of dismissal of pregnant, puerperal or breast-feeding women or fathers on paternity leave, and in cases of employers' denial of requests by workers with children aged under twelve to be granted reduced working schedules.

Table 9. Annex - Mandatory prior consultation of the Commission for Equality in Work and Employment

ii. Relevant political commitments

139. The 2005/2008 National Action Programme for Growth and Jobs is a reference for strategic governance that aims at attaining economic growth and job creation, in a framework of public accounts' sustainability, social cohesion, competitiveness, and sustainable development.

140. This is a programme of public initiative, whose implementation proceeds in active partnership with civil society and private initiative and in which public policies assume the role of catalysts of a process of modernisation and change. In its conception, within the framework of a network of Coordinators reporting directly to the Prime Minister and integrating personal representatives from all ministers and programme coordinators essential for its success, consideration was given not only to operative documents that engage Government action, such as the Government Programme, the strategic national plan (Broad Options of the Plan) and the Stability and Growth Plan, the 2005/2008 National Action Plan for Employment, the National Plan for Equality (2003/2006 and 2007/2010) and the reference lines of the 2007/2013 National Strategic Reference Framework and of the Technological Plan, but also to multiple contributions from civil society, such as opinions on implementation of the Lisbon Strategy at both national and European level.

⁴² Article 24, n. ° 1 and 2, of the Labour Code.

⁴³ Article 24, n.° 3 of the Labour Code.

⁴⁴ The fines imposed can vary from 20 to 600 units of account (one unit of account = €89, between 2004 and 2006, and €96 between 2007 and 2009).

⁴⁵ Article 642 of the Labour Code.

⁴⁶ Formerly the General Inspectorate of Labour

⁴⁷ Law 10/2001, of 21 May.

⁴⁸ It also contains a description of the legal regime on gender equality in work, employment and vocational training and on the protection of paternity and maternity, entered into force with the Labour Code (Law 99/2003, of 27 August, amended by Law 9/2006, of 20 March) and the Regulation of Labour Code (Law 35/2004, of 29 July, also amended by Law 9/2006, of 20 March).

- **Specific National Plans**

141. The equal opportunities policies for all and policies of equality of opportunities between women and men are transversal to all measures, in particular with regard to a life cycle work approach. However, there are some specific sectorial programmes and plans which are more directly related to the national policies aimed at gender equality, such as, the three National Plans for Equality - Citizenship and Gender Equality⁴⁹; the three National Plans against Domestic Violence⁵⁰; the I National Plan against Trafficking Human Beings⁵¹; a Programme of Action to Eliminate Female Genital Mutilation adopted in 2009 within the framework of the III National Plan for Equality; and a National Action Plan to implement the United Nations Resolution 1325 “Women, Peace and Security” adopted in the same year.

142. **Budget for the promotion of gender equality has been considerably reinforced for the period ranging from 2007 to 2013.** A specific funding line was created with a total of 83 million euros distributed to 7 different areas for that period. The Commission for Citizenship and Gender Equality (CIG) is in charge of managing several of these lines of technical and financial support and 248 projects are being implemented so far giving support to the initiatives of NGOs and other civil society organizations operating in the field of gender equality; support to training addressed to strategic groups in the fields of gender equality and prevention of gender based violence; support to the conception, development and evaluation of databases, diagnosis and good practices guides; to campaigns aimed at raising awareness and promoting gender equality as well as to combat gender based violence; integrated intervention to combat domestic violence and trafficking in human beings; support to the promotion of Plans for gender equality in Central and Local Public Administration and in enterprises and support to women’s entrepreneurship.

143. There are also two governmental mechanisms for gender equality, the participation of Portugal in international meetings; specific training in this area, as well as the making of legislation in several areas that promote human rights and gender equality.

iii. Mechanisms for Gender Equality

- **Commission for Citizenship and Gender Equality**

144. In view of the extensive restructuring of the Public Administration, the Commission for Equality and Women’s Rights and the Mission against Domestic Violence were disbanded and replaced by the **Commission for Citizenship and Gender Equality (CIG)**, in order to improve the promotion and implementation of gender equality.

145. The remit of the CIG⁵² is to ensure the implementation of government citizenship policies and to promote and defend gender equality. It answers to the Secretary of State of the Presidency of the Council of Ministers.

146. Its duties also include promoting citizenship, making general recommendations on good practices in fostering gender equality and receiving and referring complaints about gender-based discrimination or violence.

147. Representatives of the CIG and of the government member in charge of gender equality have been sitting on different councils so that the gender factor is included in all fields.

148. The CIG can therefore participate in the National Vocational Training Council⁵³ and there is a representative of the government member in charge of gender equality on the National

⁴⁹ Third National Plan for Equality - Citizenship and Gender (2007-2010) approved by Council of Ministers Resolution 82/2007 of 22 June

⁵⁰ III National Plan against Domestic Violence (2007-2010), approved by Resolution n.º 83/2007, of 22 June, of the Council of Ministers.

⁵¹ I National Plan against Trafficking of Human Beings (2007-2010), approved by Resolution n.º 81/2007, of 22 June, of the Council of Ministers.

⁵² The setting up of the CIG was approved by Decree-Law 164/2007 of 3 May.

Occupational Health and Safety Council⁵⁴, the Family Policy Council and the Family Advisory Council⁵⁵.

149. Civil society, through a representative of the NGO Section of the CIG Advisory Board, is also represented on the National Social Security Council⁵⁶.

- **Commission for Equality in Work and Employment**

150. The other national mechanism for gender equality, **the Commission for Equality in Work and Employment (CITE)** was maintained despite the reform. It kept its former structure; its tasks were adapted to the new labour regime; and it is currently working under the direction of the Ministry for Labour and Social Solidarity (MTSS), in articulation with the member of Government in charge of gender equality⁵⁷.

151. Employers are required to seek the opinion of this Commission if they do not agree with the requests of reduced timetables or flexible time arrangements for women and men with small children. The opinion must be given within 30 days and if the opinion is negative only a court of law may authorize the employer to deny the employee's request.

152. It maintains the register of court decisions with regard to equality and non-discrimination between men and women at work, employment and vocational training, in order to provide information about any final decision⁵⁸.

153. Until June 2007, it could also recommend legislative changes or propose measures related to equal opportunities in employment, work and vocational training.

154. CITE website⁵⁹ has been working since 8 March 2002 and it has had 2,003,436 users until June 2007.

155. CITE also attributes prestige awards to companies that distinguish themselves in the promotion of gender equality in the workplace ("Equality is Quality"). In the 2004 edition, 4 entities were distinguished (two awards and two honourable mentions), in the 2005-2006 edition, five (two awards and three honourable mentions), and in the 2007 edition, ten entities were distinguished (four awards and six honourable mentions).

iv. Adoption of legislation on gender equality (2001-2008)

156. **The Constitutional Law n° 1/2004, of the 24th July**, makes the 6th constitutional revision. Among other changes are the inclusion of the reference to sexual orientation in the understanding of the principle of equality and the provision that the State is responsible for the promotion of the reconciliation of family and professional life.

157. In 2006 the **Law n. 3/2006, of 21st August**, amended by declaration 71/2006, 4th October 2006, **establishing quotas** for the participation of women and men in the lists of candidates for election was approved. It states that any list of three or more candidates, for Parliament, the European Parliament and for Local Authorities must ensure a minimum participation of 33% of each sex. In the cases of lists of candidates for election to the councils of civil parishes with 750 or fewer voters and municipalities with 7500 or fewer voters, the rule does not apply. Additionally, for the Portuguese and European Parliament, the candidates' lists should not have more than two persons of the same sex successively. If the lists do not respect these rules, the public financing of the electoral campaigns may

⁵³ Decree-Law 39/2006 of 20 February

⁵⁴ Decree-Law 121/2006 of 22 June

⁵⁵ Decree-Law 155/2006 of 7 August

⁵⁶ Decree-Law 52/2007 of 8 March

⁵⁷ Decree-Law n° 79/2005, de 15 de April (amended by Decree-Law 201/2006, of 27 October)

⁵⁸ So far, that register contains only one court decision.

⁵⁹ www.cite.gov.pt

be reduced. In 2011, the Parliament will evaluate the impact of this Law in the promotion of equal participation between women and men, and revise the Law as necessary.

158. The Council of Ministers **Resolution 64/2006, of 18th May**, amending Council of Ministers Resolution 82/2005, of 15th April approves the Regulation of the Council of Ministers of the XVII Constitutional Government⁶⁰ that stipulates that draft laws must include a **gender impact assessment and use non-discriminatory language**. One of the elements that accompany notes to projects in the government's lawmaking process is an assessment of the project's impact, when it might affect gender equality. They also provide for gender specifications to be neutralised or minimised in the drafting of laws by using inclusive or neutral forms.

159. The Council of Ministers **Resolution n. 88/2006, of the 18th July**, creates the **Mission Structure of the European Year of Equal Opportunities for All – 2007**, under the coordination of the President of the Commission for Equality and Women's Rights, with the aim of preparing and ensuring the implementation of a programme of action for this European Year;

160. **Law n° 5/2007, of the 16th January on Law on Physical Activity and Sports** states that everyone, regardless of its sex, has the right to physical activity and sport and that the practice of sport shall contribute to the promotion of a balanced and non discriminatory situation between women and men;

161. The Council of the Ministers **Resolution n. 49/2007 of the 28th March**, on the **Principles of Good Governance of Public Sector Companies**, determines that all Companies held by the State have to adopt Equality Plans that promote an effective equality between women and men namely by fostering the reconciliation between professional, family and private life;

162. **Law 16/2007, of 17th April 2007**, permits the **voluntary interruption of pregnancy** during the first 10 weeks of pregnancy, free of charge at a public hospital. Under the new law, in the first 10 weeks of an unwanted pregnancy, women will be able to seek safe abortion services without fear of criminal prosecution. The legal instrument regulating the application of Law N° 16/2007 was approved in June 2007 and established the conditions, administrative procedures, technical and logistic conditions and relevant information to be provided to the pregnant women to be used in official or officially-recognised health establishments.

163. **Decree Law n° 164/2007**, of the 3rd May, that creates the **Commission for Citizenship and Gender Equality (CIG)** that, following a general restructuring of the Portuguese Public Administration, substitutes the former Commission for Equality and Women's Rights;

164. The Council of Ministers **Resolution n. 81/2007 of the 22nd June** approved the **1st National Plan against Trafficking in Human Beings (2007-2010)**. The Plan is structured in four strategic areas of intervention: 1) To Know and Spread Information; 2) To Prevent, Spread Awareness and Train 3) To Protect, Support and Integrate 4) To Criminally Investigate and Suppress Trafficking;

165. The Council of Ministers Resolution n. 82/2007, 22nd June approved the **3rd National Plan for Equality - Citizenship and Gender (2007-2010)** seeks to reinforce the fight against gender inequality in all domains of social, political, economical and cultural life. Thus, in a complementary perspective, this Plan, on the one hand, advocates the integration of the gender dimension in diverse policy areas (gender mainstreaming), and on the other it advocates specific actions for the promoting of gender equality, including positive action;

166. The Council of Ministers **Resolution n. 83/2007 of the 22nd June** approved the **3rd Plan against Domestic Violence (2007-2010)** that points clearly towards a consolidation of a policy of prevention and fighting against domestic violence, by promoting a culture for citizenship and equality, strengthening information and training campaigns, and supporting and sheltering victims in a logic of reintegration and autonomy;

⁶⁰ Rectified by the Declaration of Rectification n.º 31/2006, of the 12th June

167. The Council of Ministers **Resolution n. 86/2007 of the 3rd July** approved the **National Strategic Reference Framework (NSRF)**, which constitutes the framing for the application of the Community's policy for economic and social cohesion in Portugal for the 2007-2013 period⁶¹;

168. The Council of Ministers **Resolution n. 70/2008 of the 22nd April** approved the **strategic guidelines for the State Enterprise Sector** which concerns the design and implementation of human resources policies aimed at valuing the human being, in order to strengthen the motivation and incentive the increase of the productivity and develop and implement Plans for Equality, to promote equal opportunities for men and women and reconciliation of personal, work, and family life, eliminating discrimination;

169. The Council of Ministers Resolution n. 161/2008 of the 22nd October approved the adoption of measures for mainstreaming gender perspective into Public Administration (Central and Local levels) is translated namely in the adoption of Plans for Equality, in the institutionalization of Ministerial Equality Advisers and teams in each Ministry and in the progressive celebration of Protocols with municipalities. The Commission for Citizenship and Gender Equality (CIG) has developed so far Protocols with 46 municipalities (out of 308 municipalities) aimed at promoting Gender Equality and Non Discrimination at the local level through the adoption of Local Plans for Equality and the appointment of Local Equality Advisers and teams.

v. Employment and Social Security

170. Everyone possesses the constitutional right to work, with equal opportunities. Portuguese Constitution states the need to promote the implementation of full-employment policies; equal opportunities in the choice of profession or type of work, and the conditions needed to avoid the gender-based preclusion or limitation of access to any position, work or professional category; and cultural and technical training and vocational development for workers.

171. According to article 59 of the Portuguese Constitution, regardless of age, sex, race, citizenship, place of origin, religion and political and ideological convictions, every worker has the right:

- a) To the remuneration of his work in accordance with its volume, nature and quality, with respect for the principle of equal pay for equal work and in such a way as to guarantee a proper living;
- b) That work be organized in keeping with social dignity and in such a way as to provide personal fulfillment and to make it possible to reconcile professional and family life;
- c) To work in conditions that are hygienic, safe and healthy;
- d) To rest and leisure time, a maximum limit on the working day, a weekly rest period and periodic paid holidays;
- e) To material assistance when he involuntarily finds himself unemployed;
- f) To assistance and fair reparation when he is the victim of a work-related accident or occupational illness.

172. The National Growth and Employment Programme 2005-2008⁶² has been approved and equal opportunities issues was a transversal issue, with a specific approach to the life cycle. In what qualifications, employment and social cohesion are concerned, the programme promoted gender equality, equal opportunities for all and balance between social and working life. Its targets included increasing the female employment rate from 61.7% in 2004 to 63% in 2008 and 35% of children aged between 0 and 3 with access to childcare services by 2010 (30% in 2008).

⁶¹ The 7th priority axe of the Human Potential Thematic Operational Programme (ESF) - "Equality" establishes as its primary goal, to spread a culture of equality through mainstreaming gender strategies of education and training, equal opportunities in access to and participation in the labour market, the reconciliation of work and family life, prevention of gender violence and the promotion of efficient public policy instruments to promote gender equality and empowerment of relevant stakeholders to support them.

⁶² Council of Ministers Resolution 183/2005 of 28 November

173. The LC⁶³ and its implementing Regulation⁶⁴ entered into force in 2004, containing the legal framework on gender equality in work, employment and vocational training and on the protection of paternity and maternity.

174. In vocational training courses where workers of one sex predominate, preference should always be given to workers of the other sex where applicable⁶⁵. This preference also covers workers with little schooling, no qualifications, single parents or workers on maternity, paternity or adoption leave.

175. From 2004 till 2007 (1st semester) the female activity rate, for individuals aged between 15 and 64 years, rose and the male activity rate remained the same; but the difference between them is still significant – in 2007 (1st semester), women's activity rate is 68.6% against 79% for men.

Table 10. Annex - Female and male activity rate by age groups and sex, 2004-2007 (1st semester)

176. The Eurostat data for the reference years 2004 and 2007 confirm that the activity rate in Portugal is higher than the EU25 average, particularly in the case of women. According to those data, the increase in activity rate in Portugal between 2004 and 2007 was due above all to an increase in female activity rate, which more than cancelled out the slight decline of the male activity rate during the same period.

177. Women's employment rate (women aged between 15-64 years) has stabilised between 2004 and 2007 (1st semester) - 61,7%, and men's employment rate is decreasing (74.1%, in 2004, to 73.6% in 1st semester 2007).

178. The gender gap in employment rate has also been declining but at a less rapid rate than the activity rate. In both cases, however, Portugal exceeds the European average and the targets fixed for the female employment rate in the EU, 57% by 2005 and 60% by 2010.

Table 11. Annex - Female and male employment rate by age groups and sex, 2004-2007 (1st semester)

179. In the 1st semester of 2007 the percentage of women employed with higher education is 18.9 percentage points above that for men, but the percentage of men with higher qualifications is 10.1 percentage points more than for women.

Table 12. Annex - Employed population according to educational level and sex (%), 2004-2007 (1st semester)

Table 13. Annex - Employed population according to qualification and sex (%), 2004-2007 (1st semester)

- Data on the Public Sector

180. A research project on gender equality in the Central Public Administration was carried out in 2004/2005⁶⁶. The main goal of this research was, first, to characterise the gender situation in the Portuguese Central Public Administration, and secondly, to increase the knowledge about interactions between gender issues, the dominant organisational culture patterns and governance.

181. Portuguese Central Public Administration is highly feminised. In 2004, in all Ministries (excluding the Armed and Security Forces), the feminisation rate was 70.8%. The Armed and Security Forces are the only areas where the presence of women was very low (feminisation rate of 11.7%).

⁶³ Act n. 99/2003, of 27 August, amended by Act n. 9/2006, of 20 March.

⁶⁴ Act n. 35/2004, of 29 July, also amended by Act n. 9/2006, of 20 March.

⁶⁵ Law n°35/2004, of 29 July, regulating the Labour Code (approved by Law 99/2003 of 27 August)

⁶⁶ Rato, H. (coord.) *et al* (2007) Gender Equality in Portuguese Central Public Administration. Oeiras: INA.

182. Only in the Ministries of Education and of Culture, where the participation of women is high, are the feminisation rate in the higher wage levels equivalent to the overall feminisation rate (for the >€200.00 level the rates are 80% and 50% respectively).

183. In some ministries there are no women at all in the >€200.00 level – National Defence, Tourism and Environment, Territory Management and Social Security, Family and Child affairs Ministry (which has the highest feminisation rate - 80%).

Table 14. Annex - Ministries by global feminisation rate and by feminisation rate in the higher wage levels, 2004

- **Part time work**

184. The additional workload to which women are subject in taking care of their families, together with the high female employment rates, which in most cases involves full-time work – unlike other EU countries where many women work part-time – means that the situation is especially demanding for working women in Portugal. In the Portuguese labour market, part-time work has always been relatively insignificant. According to the 2007 Labour Force Survey (1st semester), 16.8% of women work part-time, compared with 8.1% for men.

185. In Portugal women and men work mostly full time. This is mainly due to the impact of part-time work on family disposable income. Part-time work is generally a stopgap solution for the majority of men and women in Portugal. From 2004 till 2006 the number of women with full time work increased while that of women with part time work decreased. Nevertheless, part time work is more feminised.

Table 15. Annex - Men and women in full time and part time work, 2004-2006

- **Night work**

186. The female weight among the employed population with night work has been increasing slightly (from 33,3% in 2004 to 34,7% in 2006).

Table 16. Annex - Night workers by sex (%)

- **Vertical segregation**

187. According to the Employment survey of the National Statistics Institute, we can state that female population has a majority share of employment in the following professions: “Professionals”, “Clerks”, “Service workers and shop and market sales workers” and “Elementary occupations”. Among “Service and shop and market sales workers”, women outnumber men by more than two to one. The employment structure by occupational status is presented in the following table:

Table 17. Annex - Break down of employment by occupational status

189. Men and women are not evenly distributed across the Portuguese labour market among the major occupational categories and economic activities. In 2007 (1st semester) women are predominant among professionals (58.4%), administrative staff (60.2%), and concentrate above all in service activities (74%) and elementary occupations. Occupations related to industrial production, i.e. plant and machine operators, are mostly occupied by men (82% and 82.1% respectively). The same is also true of senior managers (54.2% of whom are men).

Table 18. Annex - Feminisation of the employed population by occupation and sex (%), 2007 (1st semester)

190. It should be noted that between 2004 and 2007 (1st semester) the percentage of women increased in the better-qualified groups, from 45% to 45.6%. However, while it rose between 2004 and 2005 (32.8% to 33.9%) it fell again between 2005 and 2007 (24.5%) among senior managers. The percentage of women in elementary occupations also rose from 62.7% to 67.6% while their representation among plant and machine operators declined from 20.9% to 17.5%.

191. Vertical segregation is still prevalent with women workers concentrated in lower levels. In 2005, only 37.6% of managers, 43.6% of middle management and 26.3% of chargehands and team leaders were women.

Table 19. Annex - Employees according to level of qualification and sex, 2005

- Horizontal segregation

192. Looking at the gender distribution by activity, the feminisation rate is higher in sectors such as “Health and social work”, “Education” and “Hotels and restaurants”. Male relative weight is higher in sectors such as “Construction”, “Mining and quarrying”, “Fishing” and “Electricity, gas and water supply”.

Table 20. Annex - Employed population by economic activity and sex (%), 2007 (1st semester)

193. The differences noted are also reflected in terms of the nature of the employment contracts in question. Despite the trend towards a decline in the preponderance of temporary employment contracts and towards narrowing the gap between men and women, the proportion of female workers with this type of contract has invariably exceeded the corresponding proportion of male workers: 22.4% of women and 21.4% of men, in 2007 (1st semester), as against 21.1% of women and 18.7% of men in 2004.

Table 21. Annex - Employed population with a non-permanent contract by sex (%), 2004-2007 (1st semester)

- Equal Pay

194. The gender pay gap refers to the differences between the wages earned by women and by men. The estimates of the gender pay gap may differ, depending on the source of data available and their limitations and the methods used. As a consequence, results may vary among different studies even for the same country.

195. Using data from Lists of Personnel⁶⁷, an administrative source compiled by the Ministry of Labour and Social Solidarity, provides data, from 2002 till 2005, concerning monthly base salary in euros by qualification levels, for women and for men, as well as the ratio of women’s average gross monthly base salary to men’s average gross monthly base salary and also the difference between men’s and women’s gross monthly base salary.

196. Although a positive trend is in place, a gender gap persists regarding both wages and earnings. In 2005 women’s monthly basic wage was 19.3% lower than that of men. Taking into consideration the monthly earnings (thus including other salary components) the gender gap is wider: 22.6%.

Table 22. Annex - Average monthly basic wage (€) by sex, 2004-2005

Table 23. Annex - Average monthly earnings (€) by sex, 2004-2005

⁶⁷ “Lists of Personnel” is an administrative source compiled by the Ministry of Labour and Social Solidarity. Some sectors of activity are however deficiently covered, as the Public Administration and the Agricultural sector where enterprise organizations have more weaknesses.

197. Looking at the gender wage and pay gap by qualification level, it is noticeable that it is wider in the higher levels of qualification. Among managers, women earn around 814 euros less than men.

Table 24. Annex - Average monthly basic wage and earnings (€) by level of qualification and sex, 2004

Table 25. Annex - Average monthly basic wage and earnings (€) by level of qualification and sex, 2005

198. Analysing gender pay gap by activity, it becomes clear that there is a large earnings gender gap in the activities where female participation is higher – for instance, in 2005, under the item “other community, social and personal services activities” women earn 58,4% of men’s earnings and in the health sector 66,9%. In some activities like “Transportation, storage and communication”, “Mining” and “Construction” data reveal that women are better paid; the opposite of what happens generally, but the explanation lies in the different occupations performed by women in these activities.

Table 26. Annex - Ratio of women’s average gross monthly base salary and earnings to men’s average gross monthly base salary and earnings by activity (%), 2004-2005

199. >>The issues concerned to maternity and paternity leaves and reconciliation between work and private and family life see item 20.

vi. Right to education

200. Everyone has the right to education and culture (article 73 CPR). The Constitution and the legal regime on the educational system guarantee equal opportunities for both sexes. The state promotes the democratisation of education and the other conditions needed for an education conducted at school and via other means of training to contribute to equal opportunities, the overcoming of economic, social and cultural inequalities, the development of the personality and the spirit of tolerance, mutual understanding, solidarity and responsibility, to social progress and to democratic participation in public life.

201. One of the priority issues of Portuguese education policy is the development of adult education and training courses, based on a constant concern for ensuring gender equality. Recognising that “sex-based inequality is still present in many areas” of Portuguese society and adopting the principle of a “gender equality policy transversal to all other policies”, the programme regards education as one of the four areas in which “transversal gender equality can make an important qualitative difference” and commits to “promoting education for all, combating the effects of gender at school and in career choices”. The Broad Economic and Social Guidelines for 2005-2009 reassert its commitment to fostering an education that is aware of the effects of gender in school and working careers.

202. The National Qualification Agency (ANQ) has been set up to respond appropriately to the problem of Portuguese people’s qualifications while respecting the gender point of view. This public institute is overseen jointly by the Ministry of Education and the Ministry of Labour and Social Solidarity and is responsible for coordinating the implementation of policies on education and vocational training for young people and adults and developing and managing the system for the recognition, validation and certification of competences.

203. In 2005 **the New Opportunities Initiative** was launched in order to extend the minimum training reference to grade 12 for young people and adults. The strategy behind this initiative rests on two fundamental pillars:

- Making vocational education a real option, providing new opportunities to young people;

- Raising the basic training of the workforce, providing a new opportunity for learning and progressing.

204. The New Opportunities Initiative allows adults to go through a process of recognition, validation and certification of academic and vocational competences and/or a training process. Data regarding 2008⁶⁸ shows that this Initiative had a positive impact in women's education and training as women were the main users. Women accounted for 54% of the people enrolled in this Initiative and 65% of the trainees in adult education and training courses.

- **General data on Education:**

Table 27. Annex - The educational level of the Portuguese population aged 15 or over (in percentage, 2005)

Table 28. Annex - Percentage of girls enrolled in the different levels of schooling (%)

Table 29. Annex - Feminisation rates in secondary schooling, by areas of study and courses (%)

Table 30. Annex - Feminisation rates in completion of higher education, by areas of study (2004) (%)

vii. Social and Economic Benefits

205. The new general bases of the Welfare System⁶⁹ enshrine the principles of equality (non-discrimination of beneficiaries on the grounds of sex, for example) and solidarity (by transferring resources among citizens in order to ensure equal opportunities for all and guaranteed minimum social income for the most disadvantaged) as the main guidelines for the whole social security system. This Law also requires the creation of special conditions for the promotion of natality by favouring a balance between private, family and working life and particularly taking into account the necessary time to care for children.

206. Currently⁷⁰ there is the "scheme for employees", the "scheme for self-employed workers" and the "voluntary social security scheme", all of which form part of the General Social Security Scheme, and additionally there are also the "non-contributory schemes". These schemes cover sickness, maternity, occupational illnesses, unemployment, family responsibilities, disability, old age and death. The range of protection varies from scheme to scheme. There also exists, in addition to the schemes already mentioned, a "special social security scheme for agricultural activities" that covers disability, old age, death and family responsibilities (of agricultural pensioners).

207. Data from 2004 to 2007 show that women represent about 57% of all the beneficiaries by the social security schemes under the non-contributory system, and about 46% under the contributory system, highlighting their particular vulnerability to poverty.

Table 31. Annex - Data on women and men receiving social security in the non-contributory system

208. In 2003, the "Social Reinsertion Income" Law⁷¹ entered into force. Just like the previous "Guaranteed Minimum Income" Law, it respects the principle of equality, forbidding any kind of discrimination of beneficiaries, notably on the grounds of sex. Some of the changes introduced have to do with the social insertion component of these measures, aiming to adjust programmes to the

⁶⁸ SIGO, December 2008

⁶⁹ Approved by Law 4/2007, of 16 January.

⁷⁰ Law n.º 4/2007, of 16 January, establishes the general bases for the welfare system and maintains the legal and regulatory norms approved under Law n.º 28/84, of 14 August, 17/2000, of 8 August and Law 32/2002, of 20 December.

⁷¹ Law n.º 13/2003, of 21 May (rectified and republished by the Rectification Declaration n.º 7/2003, of 29 May; modified by Law n.º 45/2005, of 29 August, rectified by the Rectification Declaration n.º 76/2005, of 25 October), substituted the previous "Guaranteed Minimum Income" and created the "Social Reinsertion Income". This Law is regulated by Decree-Law n.º 283/2003, of 8 November, whose full text is published in annex to Decree-Law n.º 42/2006, of 23 February.

situation of each person and their family size, and it may include complementary support for health care, education, transport and housing.

209. The “social insertion income” consists of a payment included in the solidarity subsystem and a social insertion programme aimed at ensuring that people and their families have the resources to satisfy their minimum needs and favouring progressive insertion into social life, work and the community.

210. For a person under 18 to be entitled to “Social Insertion Income”, she has to meet the law’s requirements and be pregnant or have dependent minors under their exclusive care, whether being married or living in a common-law union for more than one year.

Table 32. Annex - People receiving Social Reinsertion Income (RSI), by sex

211. According to data from 2004 to 2007, women represent about 53.5% of all beneficiaries of this income, which still shows their heightened vulnerability to poverty. The major increase from 2004 and on is due to the end of the previous “Guaranteed Minimum Income”.

212. The beneficiaries of the Social Reinsertion Income are the following types of families:

Table 33. Annex - Beneficiaries of Social Reinsertion Income (RSI), by family type

213. A significant increase of mixed type of families can be observed in 2006 and 2007 (in the first semester of 2007, mixed families already represented more than half of all Social Reinsertion Income beneficiaries).

Table 34. Annex - People receiving Guaranteed Minimum Income (GMI) in 2004, by family type and sex

214. In 2004, 36% of the families receiving the “Guaranteed Minimum Income” benefit were either women alone or women supporting children.

215. The “Social Insertion Income” provides for special benefits for the families of the physically or mentally disabled or people with chronic diseases or highly dependent elderly people. The amounts of these benefits are defined in Ministerial Order 105/2004 of 26 January.

- Unemployment benefits

216. In the last two years the majority of people receiving unemployment benefits were women. This is consistent with the fact that women spend longer times than men in finding a new job.

Table 35. Annex - People receiving unemployment benefits, by sex

viii. Women and entrepreneurship

217. According to this year’s edition of the Observatory of Enterprise Creation⁷², in Portugal, about a third of entrepreneurs are women. The large majority of them, almost 90%, intend to be actually involved with their business, which is very relevant. From these, three-quarters hold at least half of the partnership, while 30% have a majority participation in their companies. Furthermore, about a quarter own 100% of the partnership, being the only entrepreneur of the company. It may be noted that among the younger entrepreneurs (26-35 years old), the proportion of women tend to be a little larger, around 40%, reflecting a more balanced gender representation among the new generations.

⁷² The Observatory of Enterprise Creation in Portugal is a project conducted by IAPMEI (Portuguese Public Agency for SME Support and Innovation) since 1999, with the collaboration of the Portuguese Network of Business Formalities Centres. Entrepreneurs are surveyed at the moment of the legal constitution of their partnerships.

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

219. In spite of this, it is also true that the proportion of businessmen among new entrepreneurs is larger than the proportion of businesswomen. Moreover, the results of this survey show that more women than men were employees immediately before conducting these entrepreneurial initiatives and that the proportion of women who were previously unemployed or housewives/housekeepers is considerably larger. Some differences of profiles thus prevail.

220. The possibility of being creative or to innovate, of guaranteeing economic stability of the family or seizing an opportunity are the major reasons for creating a business in Portugal, for both men and women. However, women tend to value most economic factors, notably financial stability, whilst men give relatively more importance to the possibility of creating new things.

C. Part of the report relating to specific rights

Article 6 – The Right to work

Dir.Q.15. Provide information on effective measures taken to reduce unemployment including on: (a). The impact of targeted employment programmes in place to achieve full and productive employment among persons and groups considered particularly disadvantaged, in particular women, young persons, older persons, persons with disabilities and ethnic minorities, in rural and deprived urban areas; and (b). The impact of measures to facilitate re-employment of workers, especially women and long-term unemployed workers, who are made redundant as a result of privatization, downsizing, and economic restructuring of public and private enterprises.

I. The strategy on the combat and prevention of unemployment for young people, adults and elderly

221. Despite Portugal's high employment rate within EU context, the unemployment rate has been increasing in the last years as a result of the restructuring process. This general trajectory compelled active employment policies to increase effective responses aiming at professional (re) integration as rapidly as possible and duly supported to prevent systematic cycles of inactivity/employment/unemployment.

222. The **global employment rate** (15-64 years), which stood at, 67.8% as calculated in 2007 (-0.1p.p than in 2006 and +0.3p.p than in 2005), was around 68.4% in the 1st semester of 2008. The increase of the global employment rate, in the first semester in 2008, was not observed in all regions (NUT II), given that the Algarve region (-0.5p.p.) and in the Alentejo (-1.2p.p.) decreased. In 2007, the Centre (71.6%), Algarve (69.4%) and the Alentejo (67.8%) showed equal or higher rates than in most of the country, the lowest belonged to the Autonomous Region of the Azores and to the North (66.0%).

Table 36. Annex - Evolution of the employment rate, 2005-2008, by region (NUT II)

223. In spite of the increase already mentioned in global employment (+0.2% in 2007 and of +1.3% in the 1st semester 2008), **unemployment** increased in 2007 as opposed to 2006 (+4.9%; +20.8 k unemployed), in a superior form to the evolution registered in the previous year (+1.3%) but, with a significant reduction, and for the first time since 2001, in the 1st semester 2008 (-8.1%; -5.8% for men an -9.9% for women). The recent evolution of unemployment is especially associated to the process of reconversion which the Portuguese economy has been experiencing in these last years, as well as the

progressive effects of the international crisis on the national territory, reflecting naturally on the dynamic of the evolution of the labor market.

Table 37. Annex - Evolution of the unemployment rate, 2005 - 2007, by region (NUT II)

224. Highlighting, the **INSERJOVEM and REAGE**, initiatives to avoid the influx of long-term unemployment. These initiatives seek to provide a follow up to the objective of offering a new opportunity to all young people/adults⁷³ before they are unemployed for 6 or 12 months. In parallel, new functions were introduced in the Public Employment Service (PES), such as, for example, *IEFP NetEmprego*, by reinforcing its action along the lines of providing strategies to the unemployed, of adopting proactive attitudes to bringing them closer to the labor market.

225. The intervention methodology of **INSERJOVEM and REAGE** include the drafting of a Personal Employment Plan (PEP), which consists in the fulfillment of a Social Professional Project for each unemployed young person/adult by integrating the necessary steps towards his/her professional (re) integration, as well as, a time frame to implement it.

226. In 2007, the **INSERJOVEM** initiative was reinforced by identifying all unemployed young people within 3 months of registering. In the case of preventive actions, it should be mentioned that there was a particularly positive evolution regarding adults whose percentage was not the target of any type of intensive counseling service or job seeking support, which decreased from 7.6% in 2006 to 3.3% in 2007.

Table 38. Annex - INSERJOVEM and REAGE Initiatives, 2005, 2006, 2007 (%)

227. Also positive was the evolution of the ratio on the responses for the unemployed, either by placing them in the labor market, attending training, providing work experience or other measures improving their employability through PES. In terms of young people/ adults whom it was not possible to provide a response to at the end of 6/12 months of unemployment, both the **INSERJOVEM** as well as **REAGE** Initiative showed an improvement in relation to 2006 (of 21.7% to 20.4%, in the first initiative and of 21.9% to 18.5% in the second one).

Table 39. Annex - INSERJOVEM and REAGE Initiatives, 2005, 2006 and 2007 (%)

228. Between 2006 and 2007, there was a reduction in the influx of Long Term Unemployment (LTU) both for young people and adults, with a more obvious decrease in adults.

Table 40. Annex - Intervention of the Public Employment Service for Long Term Unemployed (%)

229. In turn, specific intervention programs were created and implemented following different criteria such as age group, level of skills/qualifications, and also conditions of greater exposure to the risk of exclusion (immigrants and people with disability⁷⁴) and have given an important contribution to help the unemployed maintain their connection with the labor market and covered by the **INSERJOVEM and REAGE**.

Table 41. Annex - . Intervention Programmes for Unemployed

230. Special mention goes to the following programmes:

231. i. The **Program for Young Unemployed between 15 and 22 years** aims at improving the quality of socio-professional integration by promoting the access to training pathways of dual certification to provide young people with school education equivalent to the secondary level and the acquisition or increase of the level of professional qualification within the framework of the *New Opportunities Initiative*. In parallel, the PES promoted the definition of young people's PEP's and

⁷³ Under the form of employment, learning, complementary training or other measures stimulating employability.

⁷⁴ For this group, see item on "Promoting an inclusive labor market for all".

respective monitoring every 30 days. Between 2005 and 2007, around 134 thousand individuals were supported by this programme corresponding to an investment of 413 M€ In the last quarter of 2007, all young people who did not have a defined PEP or had not been the target of referral were called in, so as to find the more adequate situation for them.

232. >> See item 18 of the report

233. ii. The Intervention Program for **Young Unemployed between 23 and 30 years** considers *three types* of approaches according to employability profiles. The first approach, targets young people who dropped out of school without completing basic education, by privileging the access to training pathways for basic school qualification and professional qualification or in case of those acquiring lifelong competences through work experience, access to recognition, validation and certification of competences within *the New Opportunities Initiative*. The second approach covers young people with basic or secondary education with no certified professional qualification although they have professional experience and who are referred to processes of recognition, validation and certification of competences and/or training courses making it possible for them to obtain a professional certification and raise their school level. And finally, the third approach targets young people with complete basic and/or secondary education and professional qualification by referring them to professional training periods or to support their integration in the labor market as employed or self-employed. This three-year programme (2005/2007) covered approximately 109 thousand young people with an investment of 165 M€

234. iii. Regarding the **Intervention Program for Unemployed between 31 and 54 years**, several job offers were presented to most of the unemployed covered by this intervention and a significant number obtained placement. The unemployed in this group who did not meet the conditions for direct integration in the labor market because of their employability profile were referred mostly to occupational activities, professional training courses or to vocational guidance interventions. The implementation of this program covered 216 thousand people between 2005 and 2007 and financing amounted to 263 M€

235. iv. The socio-professional integration of unemployed with higher education is carried out namely through the **Intervention Program for Qualified Unemployed** privileging various types of approaches. Between 2005 and 2007, 76 000 qualified people were covered by this programme and investment amounted to 190 M€

236. In the sequence of the commitment assumed by the Government, to “*support the integration of young graduates in small and medium enterprises in order to foster the innovation and management capacity of these companies and facilitate young people’s transition to active life*” – emphasizing the creation and development of specific instruments based on: knowledge, technology, innovation and knowledge, as follows: (a) the Vocational Training Programs; (b) the INOV-JOVEM program; (c) the INOV Contacto program; (d) Training for people of Portuguese origin; (e) the Training Programs for Public Administration ; (f) the Training Program for Local Public Administration:

237. i. The **Professional Training program** has maintained, along the years, high levels of execution demonstrated by the increasing number of companies and first job seekers accessing it. In 2007, the execution was higher than 100%, with over 20 500 training vacancies filled (around 20 000 training periods in 2006, and execution of 100%) revealing a professional integration rate of 89%⁷⁵.

238. ii. **The INOV-JOVEM** program since its implementation in 2005, aims at the professional integration of young people with higher education in small and medium enterprises. Obtaining extremely positive results after three years of being launched: (a) initially conceptualized to involve 1 000 young people, it ended up covering 4 600 during these years; (b) over two-thirds of

⁷⁵ Study – Evaluation of the Impact of the Actions financed by European Social Fund (ESF) in the Integration and employability of Beneficiaries, European Social Fund Management Institute (IGFSE).

those that completed training were able to get a job; and (c) small and medium enterprises recognized the importance of the programme through its management and innovation capacity.

239. iii. The **INOV Contacto Program**⁷⁶ - is an International Training Program established in 2005⁷⁷, to qualify young graduates and professionals in key knowledge areas by providing them with effective competences in innovation by increasing company competitiveness and employment of these young people. The *INOV Contacto Program* revealed very positive results after assessing the last years, which surpassed the targets defined by covering 550 trainees during 2005-2006, 2006-2007 and 2007-2008, and verifying that around, 50% of the trainees covered were presently employed, among which 25% worked abroad while the rest was employed in Portugal.

240. iv. **Training for People of Portuguese origin** recorded high levels of execution in 2006 and 2007, (above 90% and 100%, respectively), although the number of young people covered was not very significant: approx. 30 young people.

241. v. The **Professional Training in Public Administration**⁷⁸ (PEPAP) and **Professional Training in Local Public Administration**⁷⁹ (PEPAL) programmes took place between 2006 and 2007, corresponding to 12 months of professional training in public administration bodies at central and local level, for young people.

II. Promotion of an inclusive labor market for all

242. Considering that certain population groups, such as people with disabilities, immigrants and minorities have difficulties particularly in accessing the labor market, and for these reasons are more exposed to situations of social exclusion, the following intervention programs also exist:

Table 42. Annex - Intervention Programs for an Inclusive labor market for all

243. i. **The Intervention Program for an Inclusive Labor Market** aims at promoting actions supporting the creation of employment, qualification, technical and financial support for groups with special difficulty to integrate the labor market and at risk of social exclusion. It promotes, as well as, the (re)integration of unemployed and/or inactive persons. This Program combines other responses and complementary incentives in health, social security within a perspective of combating inequalities and of greater social cohesion, such as the Integration Social Income (RSI) (see item 29). The Programme for Inclusion and Development (PROGRIDE), Local Contracts for Social Development (CLDS) and Microcredit also complete this initiative.

244. Included in this Program: i) guidance initiatives; ii) Education Training courses; iii) Program “Vida-Emprego” to help recovering drug users; iv) Occupational Programs for Disadvantaged groups; v) Integration companies; vi) Special Vocational Training; vii) Direct Placement in the labor market; viii) the New Opportunities’ Initiative within Recognition, Validation and Certification of Competence (RVCC) of adults at an active age and RSI beneficiaries.

245. In addition to PES intervention addressing these target groups, mention should be made to the role developed by the Operational Program for Employment, Training and Social Development (POEFDS)⁸⁰ as an essential tool used in the implementation of the European Strategy for Employment and National Plans for Inclusion, namely Area 5– Fostering Social Development and respective

⁷⁶ Within the scope of the Ministry of Economy and Innovation, through the Agency for Foreign Investment Trade of Portugal (AICEP)

⁷⁷ Resolution of the Council of Ministers no 93/2005, of 20 de May, simultaneously with the INOV-JOVEM program.

⁷⁸ Under the responsibility of the Directorate-General for Administration and Public Employment..

⁷⁹ Managed by the Directorate-General of Local Authorities.

⁸⁰ Since 3rd of July 2007, POEFDS was integrated into the Human Potential Operational Programme (POPH) and its activity is structured around ten priority axels:

Priority Axel 1 - Initial Qualification; Priority Axel 2 - Life-Long Adaptability and Learning; Priority Axel 3 - Professional Management and Further Training; Priority Axel 4 - Advanced Training; Priority Axel 5 - Supporting Entrepreneurship and Transition into Active Life; Priority Axel 6 - Citizenship, Inclusion and Social Development; Priority Axel 7 - Gender Equality; Priority Axel 8 – Algarve; Priority Axel 9 – Lisbon; Priority Axel 10 - Technical Assistance

Measures⁸¹, covering 4.361 people in training. Also within the scope of the POEFDS Measures/Actions – New Opportunities, more specifically measure 5.3.1.2 – Education and Training of Adults with School and Professional Certification (disadvantaged groups) covering 179 trainees.

246. ii. **The Programme for the Vocational Training and Employment for People with Disabilities**, aiming at facilitating the social and Professional integration of people with disabilities with difficulties in accessing, staying in the labor market or career advancement, covers a wide range of responses facilitating access to employment, namely: i) Employment incentives in the normal labor market; ii) Sheltered Employment; iii) Assessment/Professional Guidance, iv) Pre-professional preparation; v) Vocational Training; vi) Re-adaptation to Work; vi) Placement Support and After-Placement Follow-up, among others.

247. In this context, stressing the importance of 1st National Action Plan for the Integration of People with Disabilities or Impairments 2006-2009 (PAIPDI), in force until 2009, which defines a set of measures and actions aiming at the rehabilitation, integration of people with disabilities or impairments in society.

248. The Report on the implementation of the measures of the PAIPDI on the 1st half of 2009, shows that, for a total of 99 measures, 48 are completed, 32 under development and 19 to be executed until 2009. The percentage of these values represents, respectively, 49%, 32% and 19% of all measures.

249. Comparing the years 2007 and 2008, regarding the level of implementation of the measures, the data show that the most significant differences relate to the measures completed (22.5% in 2007, 42.4% in 2008) and the measures to be implemented (42.5% in 2007, 20.2% in 2008), with a slight increase in measures being implemented in 2008 (37.4% versus 35% in 2007).

250. It is important to mention that the Plan had a great development in relation to past years, verifying that, even for those measures that have been completed, the different sectors continue to develop actions that have exceeded the targets established for some measures.

251. The following initiatives were developed according to the measures established under PAIPDI among others:

- Creation of a pool of sign language interpreters to facilitate the access of deaf people to the services and responses of Employment Centres;
- Signing of 17 protocols with large national companies from different sectors (public companies, banks, largest retail groups, ICT companies, among others) to promote the employability of people with disabilities or impairments. By assuming a commitment to create effective equal access to employment, work and professional integration of people with disabilities and demonstrated at a human resource level, as well as hiring; signing of service provision contracts, creating universal accessibility spaces and using equipment accessible to people with different characteristics;
- Methodology and instruments organising the training of people with no conditions to accessing complete professions;
- Develop a project for work readjustment of people who became disabled during their adult and professional life, aiming at their experimental implementation in 10 Professional Rehabilitation Centres;
- Access of people with disabilities to training courses for the population in general, with the support of professional rehabilitation Centres and Units accredited by PES as Specialised Resource Centers;
- Promoting entrepreneurship projects included in distance learning, for unemployed disabled people;

⁸¹ Specifically Measure 5.3 – Fostering Social and Professional Integration of Disadvantaged Groups.

- 5 protocols were signed setting up Centres of New Opportunities to develop a reference instrument in the RVCC process up to Basic Education and adapted to people with disabilities and impairments. Since June 2007 until June 2008, 582 people with disabilities and impairments were covered.

252. **Promoting the full integration of immigrants in the labor market** and in society is based on the Plan for Immigrant Integration 2007-2009⁸² carried out by ACIDI. One of its most relevant service is the **National Immigrant Support Centers (CNAI)**^{83,84}, providing integrated support services in Lisbon and Oporto by fostering a greater access in handling different issues related with their integration by establishing partnerships with several public services namely, the Ministry of Home Affairs (Foreign Nationals and Borders Service – SEF), Ministry of Labor and Social Solidarity (Social Security Institute and Authority for Working Conditions), Ministry of Education and the Ministry of Justice and Ministry of Health. Within this innovative model, **the participation of Socio-cultural mediators is fundamental. Mediators** guarantee not only a cultural and linguistic proximity to each immigrant who uses the services of these centres, but also a fundamental proximity between public administration and immigrant citizens. Furthermore, the participation of civil society institutions, as partners in the management of this project, can bring important outcomes. This results in the development of immigrant integration policy becoming a shared responsibility.

253. Between 2006 and 2007, the CNAI registered around 636 903 attendances in Lisbon, and 166 989 in Oporto. In order to facilitate the access of immigrants to information and to the support they required, 69 Local Centres for Immigrant Support (CLAII), were opened in different locations, of which 39 in conjunction with local authorities and the remainder with civil society. In 2007, a total of 25.125 people were attended and registered in the entire Network.

254. The National Immigrant Support Centres runs an Employment Support Office for immigrants (GAE), which shelters an Active life Insertion Unit – UNIVA⁸⁵. In 2007, ACIDI and IEFP established a network of twenty-five UNIVA job centres specifically for immigrants, *Immigrant UNIVA Network*, formed through partnerships with local organisations – principally immigrant associations.

255. The CNAI also runs the Entrepreneurship Support Centre (NAE) and is intended to support immigrant entrepreneurship, through a partnership with the National Association for the Right to Credit and will in the future collaborate with the General Board of Economic Practice, and the Institute for the Support of Small and Medium Enterprises and Innovation.

256. It was launched in 2007 is intended to support and follow enterprise initiatives through information regarding formalities and legal aspects of business creation, existing incentives and financial supports, as well as the access conditions to bank loans (information and guiding to the competent institutions); to support also enterprise project elaboration, provide clarifications regarding project stages and guides to training institutions (training in business management, entrepreneurship, human resources management or others related to business development).

257. In addition to facilitating the integration of unemployed immigrants, *the Immigrant NETemprego* site^{86,87} provides job offers for Portuguese candidates or EU nationals within a deadline

⁸² Council of Ministers Resolution no 63-A/2007, of 3rd May.

⁸³ The CNAI has been acknowledge internationally as a good practice in the field of immigrant integration service provision: (1) in the *Handbook on Integration for policy-makers and practitioners* of the Directorate-General of Justice, Freedom and Security – European Commission (page 22). Available for download in:

http://ec.europa.eu/justice_home/doc_centre/immigration/integration/doc/handbook_en.pdf; (2) also presented as an example of good practice in the OECD publication *Jobs for Immigrants: Labour market integration in Belgium, France, The Netherlands and Portugal* (2008), pages 285-286.

Detailed information on the establishment of the CNAIs in 2004 is available in Chapter 3 of the ACIDI Activities Report (English version) – available to download at:

http://www.acidi.gov.pt/docs/Publicacoes/RelatorioActividades_ING/activity_report_short.pdf

⁸⁴ Inspired by the Common Agenda for Integration, several Member States have been defining concrete integration programmes for immigrants that mainly refer to the 'one-stop-shop' (OSS) model.

⁸⁵ Created in 1996, managed by IEFP.

⁸⁶ www.netemprego.imigrante.gov.pt

of 30 days. The Immigrant NET employment Portal was also launched in 2008 after the quota of residence permits for citizens from non-EU countries was fixed (Law nr. 23/2007, dated 4 July). This initiative provides a resource used by employers to demonstrate interest in employing foreign citizens from third countries, and citizens from these countries who wish to apply for salaried employment in Portugal. Immigrant NET employment offers an IT solution, via internet, that allows the publicity of job offers that have not been taken up by the priority workers and, simultaneously, applications from citizens of Third Countries for these job offers as well as the opportunity to follow the entire procedure.

258. **The Choices Program**⁸⁸, currently in its third phase (time frame from 2006-2009) and like its previous ones (2001 and 2004), aims at the social inclusion of children and young people from disadvantaged socio-economic backgrounds in view of promoting equal opportunities and reinforcing social cohesion. It targets children and young people between 6 and 24 years residing in territories with a high exclusion rate and reduced number of institutional solutions or exposed to extremely vulnerable situations facilitating social exclusion for example such as, early school leavers or without minimum compulsory education or young people subject to promotion and protection measures. The parents and relatives of these children and young people are indirectly potential beneficiaries of the Choices Program. In 2007, 121 projects were financed, 39 in the North Region, 45 in the Center Region, and 37 in the South Region and Islands including 48 091 children and young people.

259. In parallel, highlighting: (i) the launch of the *CNAI Immigrant card* and monthly Newspaper; (ii) the celebration of a protocol to open a Country of Origin Migrant Support Centre (CAMPOS); (iii) a training plan based on the reference “Citizenship and Cultural Diversity in Professional Practices”; (iv) awareness-raising campaigns on immigrants’ workplace safety and (v) the results obtained with the intervention program for unemployed migrant⁸⁹.

260. Finally, emphasizing **New Opportunities Initiative** that focused on the lifelong strategy as training and a qualification initiative for Portuguese young adults.

Dir. Q. 16. Provide information on work in the informal economy in the State party, including its extent and the sectors with a large percentage of informal workers, and the measures taken to enable them to move out of the informal economy, as well as on measures taken to ensure access by informal workers, in particular older workers and women, to basic services and social protection.

I. Combat undeclared or irregular work and promote sustainable jobs with employability guarantees for workers

261. Undeclared or irregular work, equality and prevention of workplace and employment discrimination, organization of working and rest time, reconciliation of work and family life, social dialogue and conditions of collective representation are subjects developed by the AWC⁹⁰ as objectives in the *Axis on Decent Work*.

⁸⁷ *NETemprego site* was launched in June 2006 and managed by IEFP. It provides a 24-hour online service that is intended to give the supply and demand for jobs in Portugal and Europe new impetus. It essentially aims to provide a better match between applicants’ job search and employers’ job supply, simultaneously reaching a more extensive number of users and making the job market more transparent and effective. At the end of June 2009, the portal provided 5858 work posts corresponding to 3398 job offers in a universe of 108,466 available CVs.

⁸⁸ 4th Phase of the ACIDI’s Choices Programme (2010-2012), created by Council of Ministers Resolution nr. 63/2009, dated 23 July. Set up in 2001, the Choices Programme has proved it can effectively intervene in the field of social inclusion; among the five strategic intervention areas, the 4th phase has focused on youth entrepreneurship and empowerment. It provides a response to difficulties young people face in entering the labor market by showing that entrepreneurship is a valid alternative to employed work and as a means of combating unemployment.

⁸⁹ The Employment and Vocational Training Institute (IEFP) is responsible for its implementation. The Programme involves a complementary set of social responses for their professional integration and insertion, namely: (i) Portugal Receives Programme; (ii) special vocational training; (iii) Adult Education and Training courses; (iv) Occupational Programmes; (v) insertion companies; (vi) access to the Job Centre services.

⁹⁰ <http://www.act.gov.pt/>

262. *Types of Undeclared Work*: Undeclared Work; Totally or Partially Undeclared Work; Irregular Use of Fixed-Term Employment Contracts; Temporary Work, Assigning or Posting Workers; Posting of Workers to Provide Services

a) Undeclared work

Table 43. Annex - Undeclared or Irregular Work

263. 19.001 inspection visits were conducted on undeclared or irregular work within the Inspection Action Plan 2008-2010, aimed at developing strategies to combat undeclared work and irregular contractual flexibilities and integrating such cases into regular employment according to the legal framework.

264. Following the inspection activity developed in this programme, the AWC services filed 3.484 prosecution reports corresponding to the imposition of minimum fines amounting to € 3.661.238. 3.126 written warnings were issued on remediable irregularities where there was no irreparable prejudice for employees, work management or for social security.

Table 44. Annex - Inspection on irregular work

265. The table reproduces AWC activity regarding cases of totally or partially undeclared and irregular work.

b) Totally or partially undeclared work

266. The AWC and Social Security Services were given powers to identify situations of undeclared work, partially undeclared work, under-declaration of remuneration and concealment of employment contracts. The scope of this inspection activity involved cumulative verification of health surveillance, transfer of civil liability against work injuries and compliance duties of formal communication before AWC.

267. All sectors of activities were considered, with priority in construction, hotels and restaurants, hairdressing and beauty salons, car wash centers, call centers, forestry, agriculture and farming, communications, wholesale and retail trade, the organization of events, manufacturing, financial intermediation, banks and insurance companies and seasonal activities. 11.528 inspection visits were conducted to identify totally or partially undeclared work.

Table 45. Annex - Totally of Partially Undeclared Work

268. As a result of the inspection activity developed in 2008, AWC filed prosecution reports corresponding to the imposition of minimum fines amounting to €3.145.095. In addition, 2351 written warnings were issued by labor inspectors on remediable irregularities where there was no irreparable prejudice for employees, work management or for social security.

c) Irregular use of fixed-term contracts

269. The inspection activity was focused on the irregular use of fixed-term contract in terms of duration of fixed-term contracts, succession of fixed-term workers for the same job, preference for hiring fixed-term workers, information on admission and termination of fixed-term work contracts and to report these cases to the competent authorities. Increasingly, the action reported to health surveillance and transfer of civil liability due to work injuries.

270. Priority intervention was carried out in construction, hotels and restaurants, hairdressing and beauty salons, car wash centers, call centers, forestry, agriculture and farming, communication, wholesale and retail trade, organization of events, manufacturing, banks and insurance companies and seasonal activities.

Table 46. Annex - Irregular Use of Fixed-Term Contracts

271. In the sequence of the inspection activity developed in 2008, the AWC filed prosecution reports corresponding to the imposition of fines amounting to €376.458. 724 written warnings were issued where there was no irreparable prejudice for employees, work management or for social security.

d) Temporary work, assigning and posting workers

272. The inspection activity referred to the regular exercise of posting workers and assigning workforce, grounds, duration and succession of temporary work contracts in correlation with the use of temporary work contracts, working conditions of temporary workers specifically in view of company employees' and compliance of occasionally assigning workers, in relation to the principles of implementing conditions and formalities.

Table 47. Annex - Temporary Work, Assigning and Posting Workers

273. In 2008, 1119 inspection visits were conducted to activities of temporary work, assigning and posting workers, 51 prosecution reports were filed corresponding to the imposition of minimum fines amounting to €130.468.

e) Posting of workers to provide services

274. In 2008, 43 inspection visits were carried out to the posting of workers providing services in Portuguese territory, and a prosecution report corresponding to the imposition of a minimum fine of €9.216 was issued.

Table 48. Annex - Posting of Workers to Provide Services

II. Prevent and Monitor Discrimination in Employment and Working Conditions of More Vulnerable Working Groups

275. An inclusive labor market, the approach to equal gender as a citizenship issue, reconciliation of work and family life, the respect for differences and universal guarantees associated to the work contract as well as protecting more vulnerable workers such as minors, specifically in the case of children working in entertainment, publicity and similar activities justified that WCA develops a program into five actions.

Table 49. Annex - Prevention and Monitor Discrimination in Employment and Working Conditions of More Vulnerable Working Groups

276. 3822 inspection visits were conducted aiming at developing prevention and control strategies to promote policies and practices of equality and non-discrimination in the access to employment and working conditions.

277. In 2008, as a result of this inspection activity, 396 prosecution reports were filed corresponding to the imposition of fines amounting €442.387 and 255 written warnings issued.

a) Integration of migrant workers

278. The integration of migrant workers was carried out through information and monitoring initiatives aimed at ensuring equal treatment in the access to employment and in the working conditions and preventing discrimination at work and employment based on nationality. All economic sectors were considered, especially construction, hotels and restaurants, agriculture, industrial cleaning and trade.

Table 50. Annex - Integration of Migrant Workers

279. 2861 inspection visits were conducted to the integration of migrant workers. As a result of the inspection visit, the AWC filed a prosecution report corresponding to the imposition of minimum fines amounting to €276.249.

280. The labor inspectors issued 89 written warnings related to remediable irregularities for employees, work management and for social security.

281. In addition, 50 information sessions were held by AWC as well as 50 000 pamphlets were distributed in the workplace.

b) Employment and working conditions of minors

282. The inspection on employment and working conditions of minors targeted minimum age and schooling, as well as children working in entertainment, publicity or similar activities, compliance with communication and authorization duties, transfer of civil liability against work injury and health surveillance. This action was specifically developed for entertainment activities and publicity.

Table 51. Annex - Employment and Working Conditions of Minors

283. In 2008, similarly to what happened in the previous years, AWC continued its cooperation with other bodies from Administrations and non-governmental organizations, emphasizing the PETI – Plan for the Elimination of Child Labor⁹¹, social partners and CNASTI – National Confederation for Action on Child Labor, both at the level of identifying situations and cooperating in the actions developed by them.

>>See item 37 of the Report.

284. 250 inspections were conducted on the employment and working conditions of minors, and notification documents were issued corresponding to the imposition of fines amounting to € 65.568.

285. The following tables depict a set of representative indicators on the actions developed by labor inspectors and deemed significant to analyzing this phenomenon in Portugal.

Table 52. Annex - Evolution of number of minors 1997-2000

286. The table shows that the number of minors performing illegal work has little expression and that the phenomenon, although persisting, is merely residual.

c) Equality and non-discrimination at work and in employment

287. The objective of disseminating information and monitoring equality and non discrimination at work and in employment was associated to guaranteeing maternity and paternity protection, equal pay between men and women for the same work or equal value.

288. In terms of equality and non-discrimination based on gender discrimination, a total of 658 inspection visits were conducted to verify at the same time the development of integrated actions in other programmes.

⁹¹ In September 2009, another important measure had been taken when the Government response to child labour issue had suffered deep changes, and the Programme for the Prevention and Elimination of Exploitation of Child Labour (PETI) competencies concerning prevention and fight against child labour were transferred to the Authority for Working Conditions (AWC)), according to Decree-Law 229/2009, 14th September. The social inclusion objectives were not only maintained but also reinforced with the creation of PIEC - Programme for Social Inclusion and Citizenship - created by Resolution of the Council of Ministers nr 79/2009 – succeeding to PETI, which is a body created under the Social Security Institute scope (<http://dre.pt/pdf1sdip/2009/09/17000/0584805850.pdf>).

Table 53. Annex - Equality and Non-discrimination at work and in employment - Non Discrimination based on Gender

289. 376 inspection visits were conducted on situations of equality and non discrimination based on gender, and as a result, prosecution reports were filed corresponding to imposition of fines amounting to €55.066, and 120 written warnings.

290. >>See items 13 and 22 of the Report.

Dir. Q. 17. Describe the legal safeguards in place to protect workers from unfair dismissal.

291. The LC approved by Law no 99/2003, of 27 August, and repealed by Law no 35/2004, of 29 July, regulates equality and non-discrimination based on multiple factors.

292. Article 22 of the Labor Code provides the right to equal access to employment and an occupation by adopting the positive and negative aspects of the principle of equality defined in article 13 of the CPR.

293. Paragraph (1) sets out the positive: *“All workers have the right to equal opportunity and treatment as regards access to employment, vocational training, and promotion and working conditions.”* Paragraph (2) lays down the prohibition of discrimination *“No worker or job-seeker shall be privileged, or favoured or discriminated against, deprived of any right or exempted from any duty by reason of ancestry, age, gender, sexual orientation, civil status, family situation, genetic heritage, reduced working capacity, disability, chronic disease, nationality, ethnic origin, religion, political or ideological beliefs and trade union membership.”* The cases of discrimination are given as examples meaning that the legislation is applicable to other factors, which might constitute discrimination.

294. Consequently, employers may not practice any type of direct or indirect discrimination on any of the grounds provided for in Article 22.

295. Under Article 23(2) of the LC, behavior based on a factor which is in principle discriminatory does not constitute discrimination if, *“by reason of the nature of the occupational activities in question, or the context in which they are carried out, such a factor constitutes a genuine and determining occupational requirement, provided that the objective is legitimate and the requirement is proportional factor.”*

296. *“Anyone claiming to have been the target of discrimination must substantiate their claim, indicating the worker or workers who feel that they have been discriminated against, the employer has the duty to prove that the differences in working conditions are not based on any of the factors referred to....”* [Article 23(3)]. This therefore leads to an inversion of the burden of the proof, since the employer has the duty to prove that the differences are not based on any of the factors referred to in Article 22(2).

297. Article (35) of Law no 35/2004 extends application of inversion of the burden of the proof to access employment, vocational training and promotion since Article 23(3) of the LC only refers to working conditions.

298. According to Article 25 of the LC *“So the general prohibition of discrimination is without prejudice to the maintenance or adoption of legal measures that intend to compensate for disadvantages suffered by a group of people, namely linked to sex, working capacity, disability, chronic disease, nationality, ethnic origin, with a view of ensuring full equality in the exercise of the rights in the Labor Code and correcting a situation of inequality that persists in social life.”*

299. The LC (Article 26) specifically provides for a worker or job seeker’s right to payment of compensation for non-financial (moral) damages in the event of discrimination, without prejudice to the right to compensation for financial and non-financial damages in general terms.

300. Article 32 of Law no 35/2004 also defines fundamental concepts: direct discrimination, indirect discrimination, equal work and equal pay.

301. Article 32(3) states that discrimination could be “*an order or instruction with the purpose of disadvantaging any person by reason of one of the grounds referred to in article 23(1).*”

302. According to Article 34 of LC, “*Any action aimed at disadvantaging an employee as a consequence of the rejection of, or submission to, any discriminatory actions shall be considered null and void.*”

303. It is forbidden for the employer to oppose in any way whatsoever the exercise by the worker of his or her rights or to dismiss an employer or apply to him or her any sanction or subject him or her to any adverse treatment because of that same exercise. (Article 122(a) of the LC)

304. In the case of the employer taking a disciplinary sanction against the worker for exercising his or her rights, or the intention to invoke them and such measure is considered to be abusive, incurring the employer to pay compensation to the employee. (Articles 374 and 375 of the LC)

305. Furthermore, considers that any disciplinary measure taken against the dismissal of a worker is to be considered abusive, or any other adverse action under any form of punishment occurring within one year of the complaint, or initiation of the legal proceedings against the employer in case of alleged discriminatory acts. (Article 38 of Law no 35/2004)

306. Workers who have a disability or suffer of a chronic disease shall enjoy all the same rights and be subject to all the same duties of the other workers, in what regards to access to employment, to training, job promotion and working conditions, except the extent that their disability renders them unable to exercise them. The same Article states that the Portuguese State shall make available incentives to facilitate the hiring of people with disabilities or chronic diseases. (Articles 73 to 78 of the LC)

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

308. In addition, the *Tripartite Agreement for a New System of Regulation, Labor Relations, Employment Policies and Social Protection* signed in 2008 by the Government and most social partners based on the revision of the LC⁹² approved by Law no 7/2009, of 12 February, proposed:

- The extension of the substitution scope *ope legis* of rules contained in the instrument of collective agreement which seems contrary to the principle of equality, whatever the form of discrimination;
- The alteration of the harassment definition, by including situations not related to any factor of discrimination.

Dir. Q. 18. Indicate what technical and vocational training programmes are in place and their impact on empowering the workforce, especially disadvantaged and marginalized individuals, to enter or re-enter the labour market.

309. >>See item 15 of the Report.

Reinforcing education and qualification of the Portuguese population

310. The qualification of the Portuguese population constitutes a main strategic challenge which sets out the priorities defined in terms of public policies for education and vocational training,

⁹² The revision of the LC should be mentioned in the next Report

recognizing them as irreplaceable factors of economic, technological development, social cohesion, personal development and full exercise of citizenship. In order to respond to a structural deficit of training and qualification of the Portuguese population, the following measures and reforms are being carried out in the Portuguese education and vocational training system, namely through the New Opportunities Initiative.

- *The New Opportunities Initiative*

311. The *New Opportunities Initiative*⁹³, presented in September 2005, corresponded to a joint strategy of the Ministry of Labor and Social Solidarity and Ministry of Education to respond to a deep deficit in the Portuguese population's qualification. This initiative addresses all age groups and formal and informal learning pathways by simultaneously promoting, acquired competences and employability of all workers.

312. The New Opportunities Initiative covers two distinct axes: one that structures vocational education and training for young people and another targeting adults who did not conclude secondary education.

313. The **young people axle**, understood in the context of the Initiative as a New Opportunity of qualification, has had a significant investment in the diversification of education and training supplies of double certification (academic and professional) – Apprenticeship Courses, Specialized Artistic Education Courses, Education and Training Courses and, mainly, Professional Courses. This increase in the supply was possible due to the mobilization of a diverse set of education and training providers, as well as, due to the expansion of these offers to the network of state schools. The ANQ, I.P. is responsible for providing technical and pedagogical guidance, for monitoring VET supply, and for regulating the national qualification system. One of the main targets establish for 2010 but expected to be attained this year, is that 50% of the pupils attending the upper secondary level of education are enrolled in a vocational education and training pathway.

314. **The adults axle**, aiming to engage the active population (employed or unemployed) intends to be a New Opportunity for those who have not completed the secondary level of education and want to reinstate a qualification pathway. This opportunity may be fulfilled by undergoing further education and training or by developing a recognition, validation and certification of competences process (RVCC process) - general education: basic or secondary level or professional - in one of New Opportunities Centres of the national network. The main target is to certify 600 000 adults through RVCC processes and to cover 350 000 through Adult Education and Training Courses between 2006 and 2010. The Portuguese active population without the complete secondary education level (16-65 years old) were 3.500.000 in 2001. With the implementation of the New Opportunity Initiative it was possible to cover more than 1,2 million adults, 34% of which are already certified.

315. One of the main challenges of this Initiative is the return of the investment in establishing the secondary level (12 years of schooling) the minimum qualification level of Portuguese population. Other key challenges are the social valuation of the personal efforts of those who chose to rise their qualification level, either academic or professional; the reinforcement in number and diversity of the actors pivoting this Initiative; and the consolidation of a network of New Opportunities Centres - “an entrance door to qualification pathways” - able to offer a proximity answer to all adults.

316. The **National Catalogue of Qualifications** (www.catalogo.anq.gov.pt) development and release became a fundamental pillar of the National Qualification System, by allowing the modularisation of education and training supplies such as Adult Education and Training Courses, Modular Training and Apprenticeship Courses. As the only instrument for double certification supply, the Catalogue currently offers over 250 qualifications of level 2 and 3, and covers over 40 education and training areas. Its update results from the regular meetings of the Sectoral Qualifications Council for each education and training area.

⁹³ www.novasoportunidades.gov.pt.

a) New Opportunities – Young People

317. i. Regarding the **main achievements** see:

Graph 4. Annex – Number of young people in education and training since 2005/06

Graph 5. Annex – Number of young people in education and training since 2005/06, by level of education

Graph 6. Annex – Number of young people in education and training since 2005/06, by modality – Basic level of education

Graph 7. Annex – Young people in education and training since 2005/06, by modality – Secondary level of education (Number)

Graph 8. Annex – Young people in education and training since 2005/06, by modality – Secondary level of education (%)

318. It was possible to obtain these results, reaching or surpassing the targets, through two main vectors:

- The strong expansion of vocational courses (covering about 87% of young people attending nowadays these offers of education and training compared with just 60% enrolled in the year 2005/06)
- The wide reinforcement of public schools with double certification courses, raising from 62 to 460 the number of public schools that offer vocational education between 2005 and 2010.

Graph 9. Annex – Young people in vocational courses since 2005/06, by type of promoter (Number)

Graph 10. Annex – Young people in vocational courses since 2005/06, by type of promoter (%)

Graph 11. Annex – Young people in upper secondary level since 2005/06, by type of course (Number)

Graph 12. Annex – Young people in upper secondary level since 2005/06, by type of course (%)

319. ii. Regarding the **goals and results** see:

Graph 13. Annex – Goals and results in Young People Axle of New Opportunities Initiative since 2006/07 – Basic level of education

Graph 14. Annex – Goals and results in Young People Axle of New Opportunities Initiative since 2006/07 – Secondary level of education

b) New Opportunities – Adults

320. Regarding the **main achievements** see:

Table 54. Annex – Enrolments and certifications in New Opportunities Initiative – Adult population

Table 55. Annex – Main indicators of Centres RVCC and of New Opportunities Centres performance

Table 56. Annex – Social profile of the candidates enrolled in New Opportunities Centres since 2007

c) The national New Opportunities network

321. In 2008, and fulfilling the New Opportunities Initiative established targets, there was a great expansion of the national New Opportunities Centres network. Nowadays, there are 454 Centres in Portugal, 6 of them in the Autonomous Region of Madeira.

322. Concerning the issue see graphs:

Graph 15. Annex - Evolution of RVCC Centres and New Opportunities Centres network (number)

Graph 16. Annex - Current New Opportunities Centres network, by region (%)

323. The New Opportunities Centres are promoted by training providers, public and private entities such as state schools, professional schools, training centres, enterprises association, associations of local and regional development, companies, municipalities, among others.

Graph 17. Annex - Current New Opportunities Centres network, by type of promoter (%)

324. The New Opportunities Centres, which evolved from the RVCC Centres (Recognition, Validation and Certification of Competences Centres that existed from 2000 until 2005), are nowadays the “entrance door” for adults’ qualification pathway.

325. The New Opportunities Centres are, among others, operators of the National Qualification System (Decree-Law no. 396/2007, 31 of December). Within the present adult education and training system, the New Opportunities Centres interlink and complement other public and private education and training provides, namely in what concerns Adult Education and Training Courses (EFA Courses), Modular Certified Training or other possibilities of completing extinct curricula of secondary level (Regulation no. 230/2008 and Decree-Law no. 357/2007).

326. The RVCC processes are, therefore, one of the National Qualification System possible pathways, developed exclusively by New Opportunities Centres. RVCC processes are based on specialised methodologies and techniques, proven and used by different countries (including Portugal) in a context of lifelong learning pathway

327. The recognition, validation and certification of competences process access vary according to the level of qualification; the duration of the RVCC process varies according to the candidates profile and the level of qualification.

328. A candidate to be awarded with a basic level certification (B1, B2 or B3) has to prove to have acquired a diversified set of competences, gathered in 16 competence units (4 for each key competence area: Citizenship and Employability; Mathematics for Life; ICT and Language and Communication – cf. Key Competence Standard Basic Level).

329. A candidate to be awarded with a secondary level certification has to prove to have acquired 44 of 88 competences. These competences are associated to 22 competence units (4 key competences each) and are distributed among 3 key competence area: Citizenship and Professionality; Society, Technology and Science; Culture, Language, Communication – cf. Key Competence Standard for Adult Education and Training – Secondary Level.

330. The RVCC processes end with a public certification session that formalizes the undergone qualification pathway. In these sessions, not only the members and the coordinator of the New Opportunities Centre team take part, but also the director of the centre and an accredited external evaluator, belonging to the National External Evaluators Cluster.

Graph 18. Annex – Average number of hours dispended by candidates in New Opportunities Centres between enrolment and certification

Article 7 – wages, rest, safety and health at work

Dir. Q. 19. Indicate whether a national minimum wage has been legally established, and specify the categories of workers to which it applies, as well as the number of persons covered by each category. If any category of workers is not covered by the national minimum wage, explain the

reasons why. In addition, indicate: (a) Whether a system of indexation and regular adjustment is in place to ensure that the minimum wage is periodically reviewed and determined at a level sufficient to provide all workers, including those who are not covered by a collective agreement, and their families, with an adequate standard of living; and (b) Any alternative mechanisms in place, in the absence of a national minimum wage, to ensure that all workers receive wages sufficient to provide an adequate standard of living for themselves and their families.

Guaranteed Monthly Minimum Wage

331. According to the CPR article 59 (2) a), the State shall be charged with setting and updating a national minimum wage which, among other factors shall have particular regard to workers' needs, increases in the cost of living and the requirements imposed by economic and financial stability.

332. The LC establishes (article 266) that all workers are entitled to at least a guaranteed monthly wage laid down by law and updated annually, taking into account workers' needs, increases in the cost of living and productivity trends.

333. The adjustment of the guaranteed minimum monthly wage is intended to satisfy the criteria of wages and income policy (Article 210 of Law no 35/2004).

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

335. Decree-Law no 19/2004, of 20 January, aligned the minimum wage for domestic services with that for other activities. **Table 57. Annex - Guaranteed monthly minimum wage - National Minimum Wage: mainland - (1974-2008)**, shows the background for the minimum pay presently designated as guaranteed monthly minimum wage (RMMG)⁹⁴, allowing to accompany the more significant changes.

336. On 6 December 2006, an Agreement on the Fixation and Evolution of the Guaranteed Monthly Minimum Wage (RMMG) was signed by the Government and social partners foreseeing that it would be €450 in 2009 and €500 in 2011.

337. Decree-Law no 2/2007 of 3 January, established the guaranteed minimum monthly wage at €403. For 2008, Decree-Law 397/2007 of 31 December, set the guaranteed minimum monthly wage at €426, corresponding to an increase of + 5,7% and an absolute growth of 23 €a month.

338. According to a Questionnaire on Average Earnings and Duration of Work conducted by the Planning and Strategy Office (GEP) of Ministry of Labour and Social Solidarity (MTSS), the percentage of full time workers covered by the RMMG, in October 2007, was 6% (8.8% Women and 4.4% Men).

339. Observing a heterogeneous behavior under the Portuguese classification of Economic Activities CAE - Rev 2, the proportion of full time workers covered by RMMG showed a higher incidence in "Hotel and Restaurants" (13.9% in October 2007). On the other hand, the proportion of workers earning the RMMG, tend to be irrelevant in the "Production and Distribution of Electricity, Gas and Water and in "Financial Activities".

340. **Table 58. Annex - Wage, Price, Employment and Productivity Indicators**, demonstrates some indicators on salaries, prices, employment and productivity. The evolution shown for average earnings was calculated based on the Employment, Remunerations and Index of Hours Worked in the industry by the National Statistics Institute (INE). The evolution of RMMG is the total

⁹⁴ Designation introduced by the Labor Code in 2003.

of activities without domestic services until 2004, which was the year when the minimum wage for domestic service was equivalent with that of other activities.

341. Between 1999 and 2002, the RMMG evolution was higher than that of traditional salaries, although distant from the evolution verified in the average earnings of the industry. Between 2003 and 2005 the RMMG evolutions (2.5%) were below that of traditional salaries, whose evolution was identical to the earnings in 2003 and 2004 (2.9%) and a decrease in the RMGG was noted of 0.8% in terms of acquisitive power in 2003, followed by slight increase in 2004 and 2005 (0.1% and 0.2%). In 2006, the RMMG evolution (3%) surpassed that of traditional salaries (2.7%) but translated a slight decrease (-0.1%) in real terms when deflated with the consumer price index in Portugal, while the nominal evolution recorded in the average earnings enabled a real increase (1%), lower than last year (0.1% and 0.2%). The RMMG increase in 2007 (4.4%) superseded the traditional salaries (2.9%) and earnings in the industry (2.3%) allowing the RMMG to have a real growth of 2%.

342. During the period considered, employment revealed slight increases except for 2003 (-0.4%) and 2005 (0%), thus emphasizing the year 2000 (2.3%) as the most significant one.

343. **Table 59. Annex - Evolution of the Main Macroeconomic Quantities**, the analysis carried out on the evolution of the main macroeconomic fluctuations shows, that in 1999 and in 2000 the GDP increased to a 3.8% and 3.9% annual rate, while it decreased in 2001 to 2%, there was a slight increase of 0.8% in 2002, and 2003 recorded a real drop (-0.8%), followed by a recovery in 2004 (1.5%), a slight rise (0.9%) in 2005 and moderate increases in 2006 (1.4%) and in 2007 (1.9%).

344. According to the Authority for Working conditions' Annual Report in 2006, 65 284 inspection visit were conducted covering 35 662 establishments and 568 926 workers although 14 751 offences were detected none were related to the guaranteed minimum monthly wage.

345. **Table 60. Annex - Average Monthly Wage and Pay**, shows levels of remunerations and average monthly salaries during 2003 until 2006, based on the Annual National Account (base 2000) of the National Statistics Institute.

Dir. Q. 20. Provide information on working conditions for all workers, including overtime, paid and unpaid leave and on the measures to reconcile professional, family and personal life.

i. Rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays

346. Every worker has the right to rest and leisure for a maximum limit of the work day, to weekly rest and periodical paid vacations, laid down in the Constitution, article 59(5).

347. These rights are enshrined in the LC and in Law no 35/2004. The LC (article 205), states that workers are entitled to at least one day of rest per week, which as a rule, should be on Sunday. Article 206, also provides the possibility of half a day or an additional weekly rest which may be distributed or interrupted under the terms to be established by collective agreement.

348. Effective supervision of the compliance of the law respecting weekly rest is also enshrined in the part time work legislation. Article 180(3) establishes that part time employment may mean working on all or only some of the days of the week, without prejudice of weekly rest.

349. Shift work means any method of organizing work in shifts, whereby entitling workers to weekly rest, and organized according to specific rules where the worker can only change shifts after a weekly rest day. [Article 189(4)]

350. Workers who work overtime during the compulsory or additional weekly rest period are entitled to 100% increase in pay for each hour worked [Article 258(2)].

351. The normal work period must not exceed 8 hours per day or 40 hours per week (article 163(1) of the LC). The increase of the normal working time period may result from the adaptability schemes provided in Articles 164 and 165 of the LC. In these schemes, the normal weekly time duration may not exceed 40 hours and should be respected in average of a reference period regulated in the collective agreement or, when missing, in the LC. (Article 166)

352. The mentioned Tripartite Agreement in 2008 (see item 17) proposed the establishment of another adaptability scheme (group) extended to other employees of the team, section or economic unit, through collective convention or agreement between employee and employer: i) The adaptability scheme defined by the instrument of collective regulation, applied to the whole team, section or economic unit where at least 60% of the employees of the team are covered as a result of union membership or choice of convention; ii) The adaptability scheme defined by agreement between the employer and employees may also be applied where the proposal is accepted by at least 75% of the employees of the team, section or economic unit.

353. The same agreement recommended the possibility to extend new forms of working time adaptability considering the adaptability of the work place and workers interest: the implementation of a working time accounts system and the possibility to use a concentrated schedule.

354. The collective agreements may also adopt daily and weekly limits of maximum working time, in two cases [Article 167(2) and (3)]: i) In non profit activities or closely related to public interest, once demonstrating it is absolutely impossible to submit a normal working period to the general limits; in this case, if it is an industrial activity, the normal working period on average may not exceed 40 hours per week of the reference period established in the collective agreement; ii) When it is particularly accentuated during intermittent work or of simple presence.

355. The majority of the conventions do not provide different work duration based on the professional group.

356. In the sequence of the previous legislation, the LC provides exceptions to the maximum limits of normal working time. Therefore, the normal working time for workers who only work during the rest breaks of fellow workers of an enterprise or establishment may be increased, at a maximum of 4 hours a day (Article 163(3) of LC).

357. Annual leave has a minimum length of 22 working days, which is increased up to 25 working days if the worker has not been absent or has been for justifiable reasons. (Article 213)

358. In the first 6 months after the contract, workers are entitled to 2 days of leave for each month of the contract, up to maximum of 20 working days [Article 212 (2)]. For contracts lasting less than 6 months, workers are entitled to two days of leave for each completed month of work before the contract expires (article 214).

359. Working days are considered Monday to Friday, with the exception of public holidays in order to define the duration of the holiday period. [Article 213(2)]

360. The right to take annual leave is only effective as from the 1st of January of each calendar year (article 212). The holiday period may not be taken on the employee's rest day.

361. If a worker fell ill during his paid holidays, these were suspended, and in principle resumed when the worker was considered to be restored to health during the same period (Article 219 (1)). In the absence of an agreement, the employer fixes the holiday dates until 30 April, of the following calendar year, in this case, in the preceding calendar year before the employee is entitled to take holidays. [Articles 219 (1 and 2) and Article 220 (3)]

362. Temporary absence due to illness or injury for more than one month determines the suspension of the work contract and also produces effects on the holiday entitlement.

363. Therefore, during the year when an illness or incapacity related to work commences, the employee is entitled to payment in lieu for the holidays not taken and respective leave pay when it is impossible for him/her to receiving full of partial holiday entitlements (Article 220 (1)).

364. After prolonged absence, the duration of the holiday period depends on the employment contract signed that year. In this case, the employee is entitled to two days of paid holiday for each month of employment, up to a maximum of 20 days [Articles 220 (2) and 212, (2)].

365. Upon the termination of the employment contract after a prolonged period due to illness or injury, the employee is entitled to remuneration and paid leave corresponding to the service provided during the beginning of the work suspension [Article 220 (4)].

366. Holiday entitlement cannot be replaced, even with the employer's agreement by monetary payment or any other, except the cases foreseen in the law, (Article 211(3) of LC). An employee may renounce to his/her holiday entitlement when exceeding 20 working days: i) Upon employee decision, receiving remuneration and respective holiday pay [Article 213 (5)]; ii) In case of his/her absence from work determining loss of remuneration, the employee may opt to receive payment in lieu of leave not taken [Article 232 (2)].

367. Payment during leave is equivalent to what the worker would receive if at work. In addition the worker is entitled to a holiday allowance during which is equivalent to basic plus other benefits, depending on the specific nature of the employment (Article 255 of the LC).

368. In what concerns holidays, article 208 of the LC, establishes 13 mandatory holidays to which two optional holidays may be added (article 209 of LC). Easter Sunday is now a mandatory holiday. The two discretionary public holidays are Mardi Gras and the local holidays in municipalities, and to be deemed as such, need to be recognized by collective agreement (Article 209).

369. Public holidays may not be altered by collective agreement or individual contract of employment (Article 210).

370. Pursuant to Article 203 (2) compensatory rest must be provided for overtime during a public holiday (corresponding to 25% of the overtime hours worked) or, upon agreement between the employer and worker, and may be replaced by paid work not inferior to 100%.

371. The possibility of increasing the working hour schedule under the adaptability scheme (compensated in the reference period as explained), or in a situation of exemption from fixed-working hours does not alter the holiday scheme.

372. The Tripartite Agreement signed in 2008 and mentioned above proposed namely, the possibility of: i) The rules on paid compensatory rest related to overtime covering work done on normal working days, weekly rest day or public holidays, may be set aside by instrument of collective agreement, establishing that overtime is subject to the same contributions and deductions as regular working hours, payment in cash or both forms; ii) Upon his own initiative and with the employer's approval, the employee is entitled to a paid leave of absence. Such time shall not be considered overtime.

ii. Undeclared Work and working conditions

373. >>See item 16 of the Report.

374. Combating undeclared work is one of the priorities of the AWC and remains part of its Action Plans through the articulation of control mechanisms with Social Security, Finance Department, and the Alien and Border Services. This priority is justified by the fact that work that is totally or partially undeclared to the work administration and social security contributes to social segmentation, depriving groups of workers of their right to social protection and leading to a deficit in

public revenues which, in turn, is prejudicial to means that foster social cohesion and put the European Social Model at risk.

375. The results obtained from these concerted actions have been satisfactory in improving working conditions, once it has allowed to legalize the situation of workers in companies, to declare more workers to Social Security, Fiscal Administration, and accordingly, to guarantee worker rights.

376. In 2007, a global amount of 4 421 622 € was detected in favor of Social Security and 12 032 380 € related to wages owed to 8 177 workers, (the majority undeclared work). **Table 61, Annex**

377. In terms of the relative assessment on the legalization of workers, 47 900 companies were inspected between 2005 and 2007, and 11 495 workers had their labor situation legalized: 7 950 illegal contract workers, 1 840 illegal temporary contract workers, 402 with concealed contracts and 1 303 undeclared workers. The fines paid amounted to 13 480 560 €

378. In 2007, a total of 19 903 immigrants were attended at the CNAI in Lisbon and 4 608 in Oporto in the presence of the AWC. In other regional services, a total of 81 456 people were attended also attended by AWC. In the first semester of 2008, 4 600 people were attended at the CNAI in Lisbon.

379. The **Table 62. Annex - Illegal Offences – Infringements mentions**, the infringements grouped by different types and identified in the general inspection activity between 2002 until 2008.

380. The **Table 63. Annex - Establishments visited /workers covered**, reflects the evolution between 2002 until 2008 of the inspections visits carried out by AWC⁹⁵.

iii. Organization and Control of Working Time

381. The duration of working time and rest are essential aspects in work organization. Therefore, AWC has been developing a growing number of measures in this field, with the purpose of elaborating information and monitoring strategies to guarantee the respect for the limit and duration of the working time as well as compliance. In 2008, along with the data mentioned above in the table on Illegal Infringements - Offences- these were the results of the inspection visits:

Table 64. Annex - Organization and Control of Working Time

382. 8832 inspection visits were conducted to develop information and monitoring strategies to guarantee the respect for the limit on the duration of working time and compliance on the forms of working time organization practiced. As a result of the inspection activity developed in 2008, the AWC filed prosecution reports corresponding to the imposition of minimum fines amounting to € 2.255.497. Thus, 1580 warning documents were issued relating to remediable irregularities where there was no irreparable prejudice for employees, work management or for social security.

iv. Limit of the Duration of Working Time

383. The action towards the limit of the duration of working time was based on the inspection activity in terms of maximum limits of the normal weekly, working time period, of overtime, obligation to register and report on the organization of working time, overtime remuneration and afforded equivalent periods of compensatory rest period. All sectors of activity were considered, specifically construction, private social solidarity institutions, banks and insurance companies, private security, industrial cleaning, agriculture and trade.

Table 65. Annex - Limits of the Duration of Working Time

⁹⁵ Considered as inspection visit all visits carried out to an establishment, workplace, employer head-office or worker residence by a labor inspector, resulting in a technical information, report or inquiry from the competent processing of the information system.

384. 4904 inspection visits were conducted in terms of the limit of duration of working time. As a result of the inspection activities developed in 2008, the AWC filed reports on infringements detected and applied a minimum fine of €1.419.002. Thus, 989 prosecution reports were filed by labor inspectors on remediable irregularities where there was no irreparable prejudice for employees, work management or for social security.

v. Forms of Organization of Working Time

385. The inspection activity related to forms of working time organization was conducted on extended work schedules or with continuous work regarding working time adaptability. All economic activities were considered, specifically in sectors involving extended numbers of working hours, extended shift work, and adaptability to the normal working period such as, the textile and clothing industry, pharmacies, private health units, and private social solidarity institutions. .

Table 66. Annex - Forms of Organization of Working Time

386. 429 inspection visits were conducted on forms of working time organization. As a result of this activity, the AWC services filed prosecution reports corresponding to the imposition of minimum fines amounting to €81.148. 85 written warnings were issued on remediable irregularities.

vi. Reconciliation of work with personal and family life

387. The network of family support infrastructures and the new labor legislation are extremely important regarding the rate of women participation in the full-time labor market and within the scope of reconciliation of work with personal and family life. Therefore, according to the “Tripartite Agreement for a New System of Regulation of Industrial Relations, Employment Policy and Social Protection in Portugal”, the maternity and paternity and adoption leave is replaced by initial parental leave, namely:

- The increase from five to ten working days, of mandatory paternity leave around the day of the birth of the child.
- 100% remunerated leave of 10 working days to be used by the father simultaneously with the maternity leave after the 10 initial days of mandatory paternity leave
- 120 days paid at 100%, or 150 days at 80%, when shared paternity leave between parents does not exist or is less than one month.
- 150 days paid at 100% or 180 days paid at 83% where the mother and father share the leave and the father is entitled to a 30 day leave or to two 15 day periods on an exclusivity basis.
- Subsidized, through a social benefit, three additional months for each spouse, corresponding to an extended parental leave paid at 25% of earnings if taken immediately after initial parental leave.
- Register part time work as full time work in order to care for children and receive social security benefits.

388. As the figures show in **table 67. Annex - Evolution of the use of parental leaves (2005-2009)**, there is the growing use of parental leaves that the father is entitled and a very positive evolution of the sharing of leaves between mother and father. In terms of trends, we observe an increase in the use of the allowances for the father, both in the initial parental allowance exclusively for the father (covering almost half of fathers) and under the initial parental allowance when shared with both parents (with a rising from less than 1% in the past several years, to 12%).

389. The investment in “creches” and qualification of “amas” (nannies) (+ 50% by 2009) through the Programme for the Extension of the Social Facilities Network (PARES) and the Support Programme for Investment in Social Facilities (PAIES) have played a fundamental role in the reconciliation of work with family life and is an undeniable example in the promotion of equal opportunities between men and women.

390. >> See item 35 of the report.

391. In addition, mentioning that basic schools have increased their school hours, the allocation of specific benefits, to the frequency of active measures for beneficiaries with children (child care benefits to be paid to trainees for the cost of child care and dependent adult expenses as well as extension of dual certification for Adult Education and Training Courses (EFA) after work.

392. Also, ongoing the intensification and execution of **three strategic plans on gender equality**: (1) Third National Plan for Citizenship and Gender Equality (2007-2010); (2) Third National Plan against Domestic Violence (2007-2010); (3) First National Plan against Human Trafficking (2007-2010), already mentioned in article 3 of the report.

393. Emphasizing, the **POEFDS** on the *Promotion Measure of Equal opportunities between Men and Women*. Among the actions to consolidate the NGO's role in pursuing the objectives related to the themes "Work, Employment and Vocational Training" supporting 58 projects. On "Reconciliation of Work with Family Life" 68 projects were supported. It is estimated that 400 000 people were covered among which were unemployed women, single-parent families, migrant communities, victims of domestic violence, recipients and RSI beneficiaries integrating public strategies⁹⁶.

394. To tackle gender discrimination in the labour market and to promote gender equality, between 2006 and 2009, the CITE coordinated the project "Social Dialogue and Equality in Enterprises" co-financed by the EQUAL Programme and developed in partnership with social partners, public authorities, state-owned enterprises, universities, associations, research centres and nine affiliate private enterprises.

395. It aimed at supporting enterprises to implement and promote good practices in the fields of equality and non-discrimination between women and men in the labour market, the protection of maternity and paternity and the reconciliation between professional, private and family life, and enhance gender equality in the context of corporate social responsibility.

396. The following activities were developed: (i) create instruments to promote gender equality and the reconciliation of professional, private and family life in the enterprises; (ii) encourage the adoption of good practices in the enterprises regarding the above mentioned fields; (iii) conceive and test self-evaluation and monitoring instruments of gender equality in the enterprises; and (iv) develop strategies and instruments to support the incorporation of gender equality in corporate social responsibility.

397. The tools and methodologies developed intend to support action plans to promote gender equality in business:

- *Training manual in gender equality for consultants and auditors.*
Instrument that qualifies consultants and auditors with skills regarding gender equality in enterprises in order for them to incorporate these concepts into their consultant and audit work in companies.
- *Self-assessment guide on gender equality in companies.*
Self-assessment tool that allows companies to make a diagnosis of their policies and practices in the areas of gender equality and non discrimination, conciliation between work and family life and the protection of maternity and paternity, as well as identify and propose areas of intervention.
- *Solution Manual – A tool for the promotion of good gender equality practices in companies.*
Instrument that integrates a set of solutions for companies interested in deepening and integrating gender equality and non discrimination, conciliation between work and family

⁹⁶ Elected educational agents; local authority technicians/professionals; managers and professionals of social solidarity institutions, associations, companies and Vulnerable Social Groups.

life, in their policies and practices. This tool is the outcome of a methodology of active participation and sharing between companies with successful practices in these areas and companies that still have some difficulties in these areas.

- *Video Good practices in gender equality in enterprises.*
- *Acting Pro(e)quality – Quality standards for gender equality and diversity training in the EU: brochure that defines a set of quality standards relating to training on gender equality and diversity.*
- *Principles for the successful implementation of equality measures (gender mainstreaming and diversity management) into enterprises/organisations.*

398. Conceptual and methodological approach on the implementation of measures for gender equality in enterprises and organizations, with emphasis on principles considered necessary for the success of the process.

399. In 2008 and 2009, 28 workshops were held, attended by about 800 people, to promote gender equality in the labour market and dissemination of tools and methodologies for implementation, strengthening and promoting good practices of gender equality in companies.

400. The recipients of these workshops were mainly employees from companies, but also trade unions leaders and workers' representatives, officers from public administration, central and local government.

401. Also during 2008 and 2009, six training courses were conducted using the training manual in gender equality for consultants/auditors, involving 77 trainees (consultants and auditors, workers' representatives and union leaders).

402. The training objective was to contribute to the development of new personal and professional skills in the field of gender equality so that consultants and auditors can be facilitators of entrepreneurial culture socially responsible incorporating gender equality into its policies, procedures and practices.

403. >> See article 3 of the report on the prize on "Equality and Quality".

Dir. Q. 21. Indicate the impact of the measures taken to ensure that women with the same qualifications do not work in lower-paid positions than men, in accordance with the principle of equal pay for work of equal value.

Equal pay between men and women

404. The LC and respective regulation regulate equality and non-discrimination on the grounds of gender in the equality regime and not discrimination based on multiple factors. However, the LC regulates more specifically equality and non-discrimination based on sex, namely in terms of pay according to the provisions in Article 28:

- *"Equal working conditions for workers of both sexes, particularly so far as pay is concerned";*
- *"Differences based on objective criteria which are common to men and women, are considered to be non-discriminatory, i.e. distinctions on the basis of merit, productivity, timekeeping, or seniority of workers";*
- *"Job description and job evaluation systems must also be based on objective criteria, which are common to men and women, in order to exclude any discrimination on the grounds of sex".*

405. Furthermore, it states that (article 37 of Law 35/2004) equal pay involves the elimination of all discrimination on grounds of sex in the factors taken into consideration in the fixing of remuneration so that the following is true with regard to equal work or work of equal value: i) any

form of variable pay, i.e. piecework is calculated on the basis of the same unit of measurement; ii) pay calculated according to the hours worked must be the same.

406. The provision of collective agreements or other instruments which establish working conditions which are exclusively applicable to male or female workers for occupational categories with equal or equivalent contents are deemed to be replaced by the most favorable provision which is deemed to apply to workers of both sexes. (Article 39(2) of Law no 35/2004)

407. Regarding the work contract, clauses breaching imperative norms, namely minimum monthly pay are null and considered replaced by these (article 114(2) of LC).

408. In Portugal, the vast majority of men and women work full time. In 2007, the employment rate for women stood at 61.9%. Along the lines of implementing the active employment policy, women were the main beneficiaries during the three years analyzed, representing 56.6%.

Table 68. Annex - Distribution of the Target Groups covered by Active Employment Policy Measures and Training according to gender (2005, 2006, 2007)

409. The information and monitoring activity within the scope of equality and non discrimination at work on the grounds of gender was based on the objectives of guaranteeing protection in maternity and paternity, prevention of discrimination at work and in employment, and guaranteeing equal pay between men and women with regard to equal work or work of equal value.

Table 69. Annex - Equality and Non-discrimination at work and in employment on the grounds of Gender

410. 376 inspection visits were conducted in terms of equality and non discrimination on the grounds of gender and as a result prosecution reports were filed corresponding to the imposition of fines amounting to €55.066, as well as 120 warning reports were issued.

>> See article 3 of the report

>>See item 20 of the report

Dir. Q. 22. Indicate whether the State Party has adopted and effectively implemented legislation that specifically criminalizes sexual harassment in the workplace, and describe the mechanisms to monitor such implementation. Also indicate the number of registered cases, the sanctions imposed on perpetrators and the measures taken to compensate and assist victims of sexual harassment

411. The LC provides for the first time that harassment, including sexual harassment, is a form of discrimination and is therefore unlawful. It defines harassment as being all undesirable conduct related to any of the factors referred to in Article 22 that takes place in the context of access to employment or in employment, work or vocational training with the purpose or effect of violating the dignity of a person or of creating an intimidating, hostile, degrading, humiliating or destabilizing environment. (Article 24(1)) The LC in particular defines as harassment, any undesirable behavior of sexual nature, verbal, non-verbal or physical with the above-mentioned purpose. [Article 24(2)]

412. There were no judicial decisions on sexual harassment during the period analyzed. During 2006, 58 complaints were submitted to the CITE, of which 6 referred to sex discrimination, 45 alleging on the breach of the legislation protecting maternity and paternity, 6 regarding non reconciliation of work and family life and 1 related to matters which do not fall within the competences of CITE.

413. Regarding the measures adopted to promote sensitization in relation to sexual harassment: the Third National Plan for Equality, in chapter 4 – Combat forms of Gender Violence – includes in

(4.1) measure C- to fight against, prevent and denounce sexual and moral harassment in the work place as well as gender-based violence in public and private spaces.

Dir. Q. 23. Indicate what legal, administrative or other provisions have been taken to ensure safety and healthy conditions at the workplace and their enforcement in practice.

i. Hygiene, safety and health of workers

414. The CPR under article 59 and 64 recognizes that every worker has the right to work in conditions that are hygienic, safe and healthy. The LC implements these constitutional precepts under articles 272 until 279. The employer is liable for ensuring the health and safety of workers in all work related matters and to prevent occupational risks.

415. The LC entitles the worker to be given up-to-date information on health and safety risks, as well as on the measures and instructions to be implemented in the event of a serious risk, and lists the cases in which such information must be guaranteed to the worker. In addition to information, it also ensures adequate training in the field of occupational health and safety in the workplace, taking into account the employee's duties and post occupied (Articles 275 and 278). Article 276 of the Code, lays down that the employer must ensure the activities relating to safety, hygiene and health at work are organized and developed with the participation of workers so that all obligations can be met. In order to achieve this, it is necessary for workers or their representatives to be consulted on the following: hygiene and safety measures before these are put into practice measures whose impact or technology will affect health and safety at work, and the training programme and the organization of training in the field of safety, hygiene and health at work.

416. The organization of health and safety services is enshrined in article 219 of Law no 35/2004. In the organization of health and safety services in the work place, the employer should take into account the nature of activities developed by the company.

417. Whenever, there are more than 30 employees exposed to high risk activities, the enterprise or establishment should provide occupational health services to these workers on site (Article 224(3) of Law no 35/2004).

418. Apart from the general legislation on prevention of health and safety in the work place, included in the LC and Law 35/2004, specific legislation exists related to certain types of risks, due to agents, substances or instruments used to perform given activities, or still, for specific workers such as pregnant workers, breast-feeding and nursing mothers and night workers.

419. This legislation regulates in general, risk assessment and measures to be implemented by the employer to prevent and reduce as much as possible hazards identified, relating to special measures for health surveillance, training, information and consultation of workers and respective representatives.

420. The specific legislation on health and safety at work, especially applicable to high risk activities, states that the employer shall apply specific preventive measures such as: adequate hygiene measures, reducing at a minimum the number of workers exposed or susceptible of being exposed, reduction of the minimum duration, replacing a hazardous agent by another less dangerous one, adequate use of working procedures, and adoption of individual protection in situations where it is impossible to reduce exposure with collective protection measures.

421. The health and safety protection of workers constitutes a criterion to consider in the elaboration of working schedules (Article 172(2) of LC). For shift work, the employer should organize health and safety activities in the work place so that shift workers can benefit from protection in terms of health and safety adequate to the nature of the work performed. (Article 190(1) of LC).

422. In addition to emphasizing the priority on improving the working conditions, it was indelibly marked in 2008, by the elaboration of the *National Strategy for Health and Safety at Work 2008-2012*⁹⁷, in the sequence of the European Union new Strategy for Health and Safety at Work for 2007-2012, assumed as an instrument reinforcing the health and safety protection of workers, as decisive factor for the success of the Growth and Employment Strategy. The National Strategy shares the main objective to significantly sustain and reduce occupational hazards and illnesses, based on the national reality, and structured so as to achieve a greater and more effective compliance of the law by micro, small, and medium enterprises, which constitute overwhelmingly our entrepreneurial fabric. Since it is a strategic and framework document guiding all action in terms of health and safety at work, its implementation and monitoring will be ensured through annual plans which will be approved by the AWC Advisory Board.

423. Within the context of the inspection activity carried out by IGT/AWC, Combating undeclared work continues to be one of the priorities of the Authority for Working Conditions (ACT) and remains part of its Action Plan for 2009 through the articulation of control mechanisms with Social Security, Finance Department, and the Alien and Border Services; The AWC inspections for undeclared and irregular work situations in 2008 included visits to over 21,000 companies and fines totaling over 5 million euros; they also contributed to the recovery of nearly 2.5 million euros social security contributions. In light of the current economic crisis, the AWC has also been monitoring business crisis situations with particular care since the third quarter of 2008, checking that companies are following the correct procedures notably in relation to: i) late payment of salaries; ii) collective dismissals; iii) suspension or reduction of activity; and iv) closure. AWC inspections have had the following results:

- Monitoring of 1439 companies (since October 2008);
- Preparation of 59 criminal complaints in 2008 and 70 in 2009 (13 and 45 respectively of which for illegal closure);
- 523 legal proceedings brought as a result of infractions detected of non-compliance with formalities in collective dismissals or other layoff situations.

424. Concerning the promotion of improving working conditions in the *National Action Plan for Prevention (PNAP)*, in 2007, the following were developed:

a) Reinforcing the National Occupational Risk Prevention System, by promoting, especially, the implementation of prevention services in companies

425. The authorization process for the external provision of HSW services by ACT constitutes a first step towards regulating the market and ensuring the quality of the services provided. Until the end of 2007, there were 72 authorized entities, of which 17 were authorized to provide services in Health, Hygiene and Safety at work and 50 in safety and Hygiene at Work and 5 in Occupational Health.

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

426. Training, informational and sensitizing activities were developed within the PNESST, namely:

- *Awareness activities/training*

427. The following themes were covered on assessment and risk prevention in class, according to school year, level and course, specifically, i) chemical risks; ii) health and safety at work; iii) worker rights and duties; iv) ergonomics; v) risks in agriculture; vi) noise; vii) fire prevention; viii) occupational hazard prevention, e ix) occupational risks in school. These activities were developed: 165 short activities, involving 5.300 students and 960 teachers; 3 activities and 2 training courses (25

⁹⁷ Approved by Resolution of the Council of Ministers no 59/2008, of 1st April and came into force on 2nd April 2008.

hours each), for teachers and educators – 36 participants; 3 awareness activities for non teachers, with 32 participants; and 9 guided study visits to companies/reference entities.

- *Conferences/Seminars*
- *Activities celebrating the National Prevention Day*
- *Other activities: exhibits/fairs and workshops*

*c) Development of Health and Safety at Work Projects aimed at companies, sectors or specific groups, sectors of activity with highest accident rate*⁹⁸

428. As National Focal Point of the European Agency for Health and Safety at Work, the AWC promoted several activities to inform and sensitize different target groups for questions related with working conditions and promote attitudes to prevent occupational risks at work, namely: 40 seminars, 56 street actions, 7 sensitization initiatives, 4 workshops, 6 open days and 1 contest.

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

i. Regulation and follow up of the qualifying and certifying training market in Health and Safety at Work

429. The AWC includes among other competences, the training coordination and certification process of advanced technicians and technicians in health and safety at work as well as the eventual management of community funding for this effect. In this context, summarizing the activity developed in the table below during the last years:

Table 70. Annex

ii. Deliver Certificates of Professional Aptitude (CAP) in HSW

430. The process of professional certification in Health, and Safety at Work and issue of CAP for Advanced Technician in HSW (level V) and Technicians in HSW (level III) began in 2001, integrating the National System of Professional Certification. Since the beginning of the process until December 2007, 17.267 applications were examined and 12.439 CAP were issued for Advanced Technicians, 2.732 CAP for Technicians, 243 Provisional Authorizations, 917 rejections and 312 extinct processes. In 2007 and after termination of the expiry date of the Certificates of Professional Aptitude, 282 CAP in HSW were renewed as well as 250 for Advanced Technicians in HSW.

Article 8– Trade unions

Dir. Q. 24. Indicate (a) what substantive or formal conditions, if any, must be fulfilled to form or join the trade union of one’s choice. Also indicate whether there are any restrictions on the exercise of the right to form or join trade unions by workers, and how they have been applied in practice; and (b) how trade unions are guaranteed independence to organize their activities without interference, as well as to federate and join international trade union organizations, and the legal and de facto restrictions, if any, on the exercise of this right.

i. Right to form and to join trade unions

431. Freedoms concerning trade unions, as well as trade union rights specifically collective agreements and the right to strike are enshrined in the CPR between rights and fundamental duties, in Chapter III on workers’ rights, freedoms and guarantees.

⁹⁸ Seminars and sensitization initiatives financed within the Programme to Preventing Occupational Risks and Living Better at Work Prize.

432. Article 55, (1) of the CPR recognizes that workers shall be free to form trade unions as a condition and guarantee of the building of their unity in defense of their rights and interests; (2) in the exercise of trade union freedom, the following freedoms are safeguarded for workers without discrimination: freedom to form trade unions at every level, freedom of membership, no worker shall be obliged to pay dues to a union to which he does not belong.

433. Developing furthermore, article 475 (1) of the LC, stating that worker have the right form trade unions at all levels to defend and promote the defense of their rights and interests, while article 479 (1) guarantees that all workers without discrimination, are free to join trade unions in respect of any given occupation or activity, and in (4) of the same article, recognizes a worker's right freely to leave the union to which he/she belongs and subject to prior notification in writing of a minimum of 30 days.

434. Forming trade unions depends on the compliance of the formalities to start their activities as soon as their statutes have been published with the relevant sections of the Ministry of Labor, on submitting a registration form together with the approved statutes, providing a certified copy or extract of the minutes from the general assembly, attendance sheet and terms opening and closing. These are the conditions to acquire the status of legal entity. [LC Article 483 (1) and (2)]

435. Freedom of association can be subsidiary applied to trade unions to the extent it does not contradict the LC or specific nature of trade union autonomy, laid out in the LC [Article 482 (2)], the norms of this regulation susceptible of determining inadmissible restrictions to the freedom of association of trade unions are not applicable to trade unions.

436. Trade union freedom is expressed in the autonomy and independence of union organization safeguarded by article 55 of the CPR and regulated by articles 452, 480, and 481 of the LC.

437. Article 452 of the LC includes workers' collective representative bodies:

"1 – Without prejudice of the support forms provided in the labor code, also makes it unlawful for employers either individually or through their organizations to promote the formation of, guarantee or finance, by whatever means, workers' collective representative bodies, intervene in their organization and management or prevent them from exercising their rights."

"2 – These workers' collective representative bodies are independent from the State, political parties, religious institutions and any other associations and make any interference by these bodies in their organization, direction or financing unlawful."

438. Trade unions are governed by statutes and regulations approved by them, they elect freely and democratically the unions' governing bodies among its members and organize their management and activity also, membership of a union's governing body is incompatible with responsible office in a political party or religious institution and other associations, relating to conflict of interests. (Articles 480 and 481)

439. Freedom to join or not to join a trade union is protected by the prohibition on discrimination (article 453) and by the provisions, which generically refer to equality and non-discrimination, namely provided in articles 22 and 23 and 32 to 34 of Law no 35/2004.

440. Article 453 prohibits discrimination and deems invalid any action that would make employment conditional on trade union membership or would cause detriment to any employee on account of activities linked to the activities of a trade union or another collective representative body.

441. Article 22 (2) of the LC establishes that no worker of job seeker shall be privileged of, favored, or discriminated against or deprived of any right or exempted from any duty on the grounds of trade union membership, among other factors. On the other hand, article 23 (1) prohibits the employer of practicing any type of direct or indirect discrimination on any of the grounds provided for

in article 22. In article 33 (d) of Law no 35/2004 clarifies as well that equality and non discrimination based on gender is safeguarded in access to employment, training, professional life and working conditions also respecting membership or participation in workers' organizations.

ii. Restrictions

442. Article 270 of the CPR states that *“the law may prescribe restrictions on the freedom of expression, meetings, demonstration, association and collective petitioning, and capacity to stand for election of permanent staff members of the military and the security forces and in the case of the latter, may prohibit the right to strike, even when the right to join a trade union is recognized”*.

443. It is such that Law 29/82, of 11 December (Law on National Defense and Armed Forces)⁹⁹, in the draft provided by Organic Law no 4/2001, of 30 August, prohibits **military** personnel of the armed forces on active service and permanent, voluntary and contractual staff, from joining a trade union but allows them to affiliate only to professional associations (articles 31 and 31-D).

444. The Organic Law no 3/2001, of 29 August, regulates the right of association of military personnel, by granting them the right to form any association, including professional associations other than ones with political, partisan or trade union purposes and extended the scope of professional associations to which armed forces could belong beyond those strictly concerned with professional issues and conduct to include ones with a mutual assistance or occupational in national territory; military personnel of the armed forces on active service, may only form and join military associations grouped by categories, where all not governed by Law, will be applied the right of association (Article 1).

445. As regards **members of the armed forces**, article 3 of the Organic Law no 4/2001 states that freedom of association and assembly, freedom of expression, the right of collective petition of the armed forces in active service, as established in Law 53/98, of 18 August, in the legislative proposal which regulates the exercise of the right of association as regards the Maritime Police and article 5 entitles members of the armed forces on active service to form professional associations on national level to promote their interests. These associations are entitled to represent internally and externally their affiliates in defending their rights and lawful interests.

446. Law no 14/2002 of 19 February on **agents of the security services and forces**, regulates the exercise of the freedom of association and collective bargaining and participation rights of staff members of the Public Security Police (PSP). Article 1 specifies the scope which is only applicable to staff members with police duties in the PSP, clarifying that PSP staff not discharging technical and/or policing duties are covered by the general negotiations in civil service employees (have no restrictions in their right to join a trade union). Article 2(2) restricts the right to join and active participation in trade union associations and similar associations, which are solely composed by personnel with police duties in active service and effective members of PSP staff.

iii. Freedom of association or trade union membership

447. The CPR guarantees in article 55 (2) (a), the freedom to form trade unions at every level, the LC sets the correlative right in article 475 (1), by establishing the notions for the associative structures corresponding to various levels in article 476:

- Trade Union – defined as a permanent association of workers for the purpose of promoting and defending their social and employment-related interests;
- Federation – association of workers trade unions in the same occupation or branch of activity;
- Union – association of regional trade unions
- Confederation – national trade union association.

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

448. Also the CPR sets forth in article 55 (5), that trade unions shall possess the right to establish relations with or join international trade union organizations, the same with article 477 (f) of the LC.

449. Law no 14/2002, regarding PSP, deprives them of the right to form trade union organizations under a federation or confederation with other trade unions which are not solely composed by personnel with police duties in active service and members of PSP staff (Article 2 (5) entitles them to establish relations with national or international organizations pursuing similar goals [same article in (6)].

450. The **Table 71. Annex - Trade Unions registered in different years (in Portugal)**, indicates the number of associations registered in the last nine years.

iv. Rights of Trade Union Associations

451. Article 56 (1) of the CPR establishes that trade union association is competent to defend and promote the defense of the rights and interests of workers they represent. Along this line, article 477 (d) of LC states that trade union associations have the right to “initiate and intervene in judicial proceedings in matters of the interest of their associates as foreseen by the law”.

452. Article 56 (2) and (3) recognize other rights of trade union associations such as:

i. Participate in the preparation of the labor legislation. This right is also referred in article 477(c) of the LC, and established under articles 524 to 530 of the LC. Any bill, legislative proposal, decree law, or regional decree-laws related to labor laws shall be published for public consultation, so that the works council, trade union associations, employer associations may pronounce themselves on.

ii. Participate in the management of social security institutions and other bodies whose aim is to satisfy the interest of the working class.

iii. Participate in the supervision and implementation of economic and social plans. Mentioned in article 92 of the CPR, the Economic and Social Council (ESC), is the body responsible for consultation and social dialogue in economic and social policies. It also promotes the involvement of economic and social operators on socio-economic issues. In the terms of the organic law (Law 108/91, of 17 August), the ESC is composed of 8 representatives of trade union associations.

iv. Representation in social dialogue bodies. It shall include the participation of 4 trade union representatives, appointed by the respective confederations, in the Standing Committee for Social Dialogue, and integrated in the ESC structure which promotes dialogue and consultation between social partners and helps to define wage and price policy as well as employment and vocational training policy.

v. Participate in the company’s restructuring process, specifically related to training or when there is an alteration in the working conditions also mentioned in article 477 (e) of the LC.

453. Article 56 (3) of CPR states that trade union associations have the powers to exercise the right of concluding collective agreements. Along this line, article 477 of the labor establishes that trade union associations have the powers to exercise the right of concluding collective agreements. The State shall promote collective agreements, so that the regimes foreseen in collective agreements may be applied to a greater number of workers and employers (article 539).

454. It should be mentioned that inspection activities within the scope of collective representation influenced the protection of rights and guarantees of worker representatives in exercising their duty of representation as well as the, conditions of collective representation and provision of information and dialogue between companies and worker representatives.

Table 72. Annex - Collective Representation and Social Dialogue

455. 1.304 inspection visits were conducted to promote favorable conditions to exercise the right of workers' collective representation and social dialogue by promoting corporate social responsibility. As a result of the inspection visit conducted in this matter, the AWC services identified 59 infringements and filed prosecution reports, corresponding to the imposition of fines amounting to a total of €215.887. The labor inspectors issued 217 warnings.

Table 73. Annex - Situations detected and result

Dir. Q. 25. Provide information on collective bargaining mechanisms in the State party and their impact on labor rights.

Social Dialogue and collective bargaining

456. During the implementation period of this report, social dialogue and collective bargaining have played an important role - either for the Government or Social Partners represented on the Standing Commission - which, in conjunction negotiated themes and generated new, essential consensus for the definition of strategies in fundamental areas for the economic and social development of Portuguese society, namely, on: Promoting Collective Agreements; Vocational training; Social Security Reform; Guaranteed Monthly Minimum Pay; New Regulation System for Labor Relation

457. The *Tripartite Agreement for a New Regulation System of Industrial Relations, Employment Policy and Social Protection in Portugal*, already mentioned, is an undeniable example of the importance of strengthening dialogue, social concertation and promotion of collective bargaining at all levels, including companies, taking into consideration the importance of the issues addressed to improve industrial relations, the development of quality in employment, reduction in the inequality of opportunities and more equitable sharing of the results of economic progress.

458. The commitment promoting social dialogue and collective bargaining is implicit in the joint effort carried out by the Government and Social partners to honor the "*Agreement on the Setting and Evolution of the Guaranteed Monthly Minimum Pay – RMMG*"

459. >> See item 19 of the report

460. It should be mentioned that two bipartite agreements were signed during these periods in Portugal: "*Agreement between Confederations represented in the Standing Commission for Social Dialogue, aimed at promoting Collective Agreements*" signed in 2005, and "*Agreement between Confederations represented in the Standing Commission for Social Dialogue regarding vocational training*" signed in 2006.

461. Regarding social dialogue, the compulsory arbitration system in labor regulation is one of the forms to facilitate the resolution of collective conflicts at work and implemented in the last quarter of 2006. The following proceedings of compulsory arbitration were developed to determine the minimum services¹⁰⁰: 2006 – 7 processes; 2007 – 56 processes; 2008 (until beginning of June) – 23 processes

Dir. Q. 26. Indicate (a) whether the right to strike is constitutionally or legally guaranteed and to what extent such guarantees are observed in practice; (b) any restrictions on the right to strike in the public and private sectors and their application in practice; and (c) the definition of essential services for which strikes may be prohibited.

¹⁰⁰ This system is applied to two different situations: i) in collective conflicts resulting from signing or revising a collective work agreement when certain situations occur or ii) to define the minimum services required and necessary means to ensure, in case of a strike in direct or indirect State administration or by State enterprises satisfying immediate social needs, if the same are not regulated by collective agreement or agreed between parties during the three days following the strike notice.

i. Right to strike

462. The right to strike shall be guaranteed as mentioned in Article 57 of the CPR, which establishes that workers shall be responsible for defining the scope of interests that are to be defended by a strike and the law shall not limit that scope. On the other hand, 57 (3) of the same provision refers that the law shall define the conditions under which such services are needed to ensure the safety and maintenance of equipment and facilities and such minimum services as are indispensable to the fulfillment of essential social needs are provided during strikes.

463. The regime of the right to strike is present in articles 591 to 606 in the LC, amended by Law no 9/2006, of 20 March, emphasizing the following aspects:

- The right to strike shall be inalienable [Article 591(3)];
- Recourse to strike action is decided by trade unions, or in certain conditions by works council (Article 592);
- Picketing may be formed but should not interfere with the freedom to work of non-strikers (Article 594);
- The minimum period is five days and 10 days in the case of an enterprise or establishment satisfying immediate social needs; the strike notice should include a proposal for definition of the services necessary for the security and maintenance of the equipment or, in the event the strike affects an enterprise or establishment satisfying immediate social needs, a definition of the minimum services required; (Article 595);
- It is forbidden for employers to replace strikers by people who were not working in the establishment or business when prior notice was given, as well as hire new workers to replace strikers on that same date (Article 596);
- Trade unions and workers are obliged to provide minimum essential services necessary for the security and maintenance of the equipment or facilities and which are indispensable for the satisfaction of immediate social needs, specified in the law which lists the sectors providing these services. (Article 598);
- The minimum services should be defined by collective agreement or representatives of workers; if there is no agreement, the minister of labor initiates negotiations between workers and representatives of workers, and the minister responsible for the sector concerned; in the event these negotiations are fruitless, the minimum services are defined by the Government or by arbitration in the case the strike concerns services provided by State enterprises or State administration (Article 599);
- During the period of a strike, the employer shall not have any obligations to pay the employee [Article 597 (1)];
- Prohibits discrimination against workers going on strike, deems null and invalid any action implying coercion, prejudice or discrimination against strikers or non-strikers (Article 603).

ii. Specific restrictions

464. Article 5 (d) of Law no 99/2003, of 27 August, which approved the Law, enforces the regime enshrined in the LC of the right to strike to civil servants or public employees of Public Administration.

465. Article 270 of the CPR, already mentioned previously, may prescribe restrictions on the freedom of expression, meetings, demonstration, association and collective petitioning of permanent staff members of the military and the security forces. According to this restriction, members of the armed forces, personnel of Maritime Police and military personnel in active service do not enjoy the right to strike as referred in article 6 (i) of law 53/98, of 18 August), (Article 3 of Organic law no 4/2001, of 30 August) as well as PSP personnel with police duties [also Article 3 of Law no 14/2002, of 19 February].

466. The Constitutional framework of these matters is given by Title II, Chapter I of the CRP on rights, freedoms and guarantees, in particular art. 46° on freedom of association; by Chapter III, in the same Title, on rights, freedoms and labourer's guarantees, in particular, article 55 on freedom to choose one's own Union and of freely to leave it; art. 56, on the rights of Trade Unions and collective bargaining, and article 57 on the right to strike and the prohibition of lock out, and by Title IX on the Public Administration Law. In this last Title IX, devoted to Public Administration Law, article 270 foresees the restrictions to the use of rights.

467. In what regards the security forces, which are under the dependence of the Ministry of Internal Administration (GNR and PSP – National Republican Guard and Public Security Police), article 270 of the CRP admits legally established restrictions to the exercise of certain rights by the agents of these forces, depending on the nature of these forces and of their mission.

468. In what concerns GNR the legal framework of these matters is completed by Law 39/2004, dated 18 August, which establishes the principles and the general bases of the exercise of the right of professional association of the military in the GNR, and which concretises the limits which are permitted by the Constitutional text above mentioned, and by the Decree-Law 233/2008, dated 2nd December, which regulates this Law.

469. One of the most important restrictions is the prohibition of a political, party or Union nature of the associations (article 1, n. 2 and article 6, al. d) of Law 39/2004, dated 18th August). However, in the ambit of the representation of their members and of the defence of their statutory socio-professional and ethic interests, these associations are entitled to an appreciable group of rights such as the right to integrate consultative councils, study commissions and working groups, the right to be heard before the competent bodies of GNR, the right to present proposals and to emit advices, the right to assembly inside the facilities of GNR, the right to promote activities and to publish texts, the right to publicize documents and the right to establish relationships with associations, federations of associations and international homologue organizations. At present four professional associations of military depending of GNR exist.

470. In what concerns the Public Security Police (PSP), Union Law is regulated besides the CRP, by Law 6/90, dated 20th February (statute of associations in the PSP which general framework is regulated by Decree-Law 161/90, dated 22nd May) and by Law 14/2002, dated 19th February, which regulates the exercise of union freedom and of the rights to collective bargaining and of participation of the PSP personnel with police functions.

471. That signifies that the PSP personnel has the right to constitute professional association to which are equally attributed rights such as the representation of the affiliated elements for the defence of their statutory, social and ethic interests, their participation in the definition of the professional statute and in the conditions of exercise of the police activity (Law 6/90, dated 20th February).

472. The agents of PSP also benefit from the Freedom to join and to leave the Unions, according to the CRP and the regime foreseen in Law 14/2002, dated 19th February. The exercise of the Union Freedom by personnel with police functions in the PSP is subjected to restrictions, foreseen in article 3° of the mentioned Law, which are connected with the specificities of the nature and mission of this security force. There exist 9 Unions formed by personnel having police functions inside PSP, and 2 by personnel without police functions.

473. The right to collective bargaining is enshrined in paragraphs 3 and 4 of article 56 of the CRP, which institutes it as a right belonging to the competence of the Unions, with the corresponding consequences.

474. The right to strike, foreseen in article 57 of CRP is one of the rights which exercise may be restricted according to article 270 of the CRP, by virtue of the specificities resulting of the mission of the security forces.

475. In effect, in what regards the military personnel of the GNR, to whom the right of association is recognized, these persons are “*not entitled to exert the right to strike or any substitutive options which may hinder the normal, effective exercise of the missions of GNR, as well as its cohesion and discipline*”, according to al. f) of article 6 of Law n. 39/2004, dated 18th August.

476. The same happens in relation to the personnel with police functions of the PSP, according with al. d) of article 3 of Law 14/2002 dated 19th February, to which Union Freedom is recognised.

Article 9 – Social Security

Dir. Q. 27. Indicate whether there is universal social security coverage in the State party. Also indicate which of the following branches of social security are covered: health care, sickness, old age, unemployment, employment injury, family and child support, maternity, disability, and survivors and orphans.

477. In Portugal, the social security system is structured to cover all population age groups in the event of sickness, maternity, paternity and adoption, unemployment, work accidents¹⁰¹ and occupational diseases, disability, old age, death and family benefits, according to given specificities¹⁰².

478. Therefore, the general guidelines of the structured system were introduced according to the new basic Law on Social Security – **Law no 4/2007, 16th January** – which repealed Law no 32/2002, of 20th December.

I. Citizenship Social Protection System

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

i. Social Action Subsystem

480. This system’s objective is to prevent and correct situations of need and socio-economic inequality, dependence, dysfunction, vulnerability and social exclusion, as well as to ensure people’s integration into and promotion within the community and the development of their capabilities. It also guarantees special protection for more vulnerable groups such as children, young people, people with disability and the elderly, as well as other persons in other situations of financial or social need.

481. The social action objectives are materialized namely, through; access to social services and facilities; Projects eradicating poverty, social dysfunction, marginalization and social exclusion; benefits in kind made under exceptional circumstances and cash benefits or allowances.

ii. Solidarity Subsystem

482. This subsystem aims at ensuring on the basis of the community solidarity, the fundamental rights in order to prevent and eradicate poverty and exclusion, as well as promote social benefits for situations of personal or family need not covered by the social security system. It covers the non-contributory scheme of social security for agricultural activities, transitional scheme and other similar ones.

483. Protection is materialized through a social integration benefit; unemployment benefit; solidarity supplement for the elderly and social supplements.

¹⁰¹ Protection in the case of a work injury is mandatory, and employers or workers must purchase liability insurance for work injury with a private carrier.

Health care is not part of the social security system. It is a universal system developed by the National Health Service for residing citizens and is free of charge.

¹⁰² <http://www2.seg-social.pt/ingles/>

484. Residence in the national territory is the general eligibility condition. Protection is not dependent on registration or payment of contributions but on the beneficiaries' household income. The access of foreign residents, refugees and stateless may be dependent on certain conditions, namely minimum periods of residence or similar situations as laid down by the law.

485. The amounts are fixed by law to guarantee the beneficiaries' essential needs and ensure their basic citizenship rights and established according to the beneficiaries' income and respective members in the household.

iii. Family Protection Subsystem

486. It covers most people and guarantees the granting of family allowances and cash benefits in case of dependency or disability.

487. Residence in the national territory is the general eligibility condition. The law is dependent on the fulfillment of certain conditions, namely minimum period of residence or an equivalent legal situation; requirement for entitlements; national or foreign, refugees and stateless residents.

488. Guaranteed protection is materialized through the granting of cash benefit. The amounts are established according to the income, the composition and number of the members of the beneficiaries' household.

II. The Social Security System

489. This system is founded on a principle of work-based solidarity and seeks to ensure the provision of benefits and allowances which replace income from work that has been lost as the result of events of the type provided for by law. It covers all workers or workers performing similar work, and self-employed workers. Inactive or active persons are entitled to social protection even if not duly covered. (Optional)

490. It includes the event of sickness, maternity, paternity and adoption, unemployment, work injury, occupational diseases, disability, old age and death.

491. This system covers the general social security scheme applicable to all workers and self-employed, special regimes and optional registration scheme.

492. These are the general conditions for persons who are entitled to social protection guaranteed by the schemes of this system, which is based on the legal principle to make contributions. Both employers and employees must register and comply with the obligation to make contributions.

493. The protection against the contingencies covered is carried out by the provision of cash benefits granted as a replacement for the lost work income, and as a compensation for the loss of the earnings capacity.

494. The granting of benefits depends on the registration with social security and, where necessary as to the contingency, on the completion of a minimum period of contributions or an equivalent situation.

III. Supplementary System

495. It consists of a public capitalization scheme (RPC), one of the most innovative aspects of the new structure and complementary scheme of collective and individual initiative.

496. The RPC is an individual, voluntary scheme organized and managed by the State, which will complement the benefits provided by the welfare system, in order to increase the beneficiaries' social protection.

497. The supplementary schemes for collective (group) initiative and individual initiatives are optional. The collective (group) initiative is composed in favor of a specific group (and include supplementary professional schemes), while the individual initiatives take the form of savings-retirement plans, life insurance, capitalization insurance, and mutual schemes.

Dir. Q. 28. Indicate whether there are legally established and periodically reviewed minimum amounts of benefits, including pensions, and whether they are sufficient to ensure an adequate standard of living for recipients and their families

498. As a rule the minimum amounts are fixed as well as the percentage of the reference earnings of the beneficiary. Pensions and family allowances in case of disability and dependency are updated annually.

499. Regarding disability and old age pensions of the general scheme, minimums are fixed according to the number of years of contributory career, eventually to be achieved by resorting to a social supplement added on to the value resulting from the rules in calculating pensions.

Dir. Q. 29. Indicate whether the social security system also guarantees non-contributory social assistance allowances for disadvantaged and marginalized individuals and families who are not covered by the contributory schemes

500. As referred in item 27, the Solidarity Subsystem aims to guarantee essential rights in order to prevent and eradicate poverty, as well as provide support in proven situations of personal or family need not covered by the welfare system:

501. The following amendments were introduced relating to the period analyzed:

502. **1. Old age and disability pensions** – Similar to other social security benefits, the amount of the old age and disability pension has been fixed according to the Social Support Index (IAS) at 44.65% of this value (in 2008 the IAS was €407,41).

503. The pensions allocated within the Solidarity Subsystem Framework are updated every year by the same governmental proposals, which reappraise the pensions attributed by the general social security system.

504. **2. Social Integration Income (RSI)**¹⁰³ - the Law no 13/2003, of 21 may (meanwhile amended by Law no 46/2005, of 29 August), revoked the guaranteed minimum income established by Law 19-A/1996, of 29 June, and replaced it by the social integration income (CSI).

505. The RSI consists in granting a non-contributory differential benefit, included in the solidarity subsystem, as an integration programme, to ensure individuals and their family sufficient income to meet their basic needs while encouraging them to integrate socially and find employment. All persons living in Portugal are eligible.

506. RSI Beneficiaries: all persons aged 18 or over who fulfill the conditions; all persons aged 18 and over who have below the statutorily defined resources are eligible: lone mothers of dependent children; pregnant women; married or living together for over a year.

507. The amount is equal to the difference between the value of the social integration income based on family composition and to the sum of the family income and varies according to family size.

¹⁰³ <http://www1.seg-social.pt/left.asp?03.06.06>

508. In case of the entitled individual (if it is a woman) his spouse and person living in de facto union with him is pregnant, the value of the benefit is increased by 30% during that period and of 50% during the child's first year of life, except cessation of the right to the social integration income at a previous moment.

509. This supplement is added on to a special benefit for people who have profound, physical or mental disability in the household, who are chronically ill, old people in case of a first degree or second degree dependence and old people aged 65 and over and in case of second degree dependence.

510. **3. Solidarity Supplement for the Elderly (CSI)¹⁰⁴** - Decree-Law no 232/2005, of 29 December, with the amendments introduced by Decree-Law no 236/2006, of 11 December, created within the scope of the CSI sub-system, is an extraordinary allowance aimed at fighting elderly poverty, paid to old age pensioners aged 65 and over and to recipients of the lifelong allowance. The beneficiary's income must be less than €4.800 and €8.400 for a couple (established in Ministerial Order no 209/2008, of 27 February).

511. **4. Social protection of maternity, paternity, adoption and particular risks** - Decree-Law no 105/2008, of 25 June, established social measures to reinforce social protection in the case of maternity, paternity and adoption, and grants cash benefits aimed at ensuring income to substitute the absence or loss of professional remunerations in situation of economic need, and because they have not made sufficient contributions are not entitled to benefit from the social security system but are at the same time, in a situation of financial vulnerability.

512. The awarding of social benefits, whose granting period corresponds, in general terms to the one established for the beneficiaries of the general social security scheme is subject to residence and household income, this latter being defined in view of the *per capita* household income does not exceed 80% of the Social Support Index - IAS.

513. The daily amount of social benefits corresponds to 80% of 1/30 or to 64% of 1/30 of the IAS, in the case of opting for a maternity leave of 150 days.

Dir. Q. 30 Indicate whether the public social security schemes described above are supplemented by any private schemes or informal arrangements. If so, describe these schemes and arrangements and their inter-relationship with the public schemes

514. The public Social Security System may be supplemented by private systems (outside the scope of social security) or also by the Public Capitalization Scheme (RPC) as foreseen in Decree-Law no 26/2208 of 22 February, adopting the regulations of the Pension Certificates Fund.

515. The RPC is an individual, voluntary scheme, organized and managed by the State. The contribution of each person joining the scheme is deposited in an individual account and converted into retirement certificates, integrating an independent fund, run by the Social Security Capitalization Fund Management Institute.

516. The people joining the Public Capitalization Scheme (RCP) acquire additional rights to their retirement, old age pension, and absolute disability pension, which are directly linked to the lump sum in the individual account.

517. At the moment of retirement, the person joining the scheme may opt for: money can be used to buy a life annuity or taken as a lump sum; payment of lump sum or; transfer of the lump sum to the individual account of the spouse or descendants.

¹⁰⁴ <http://www1.seg-social.pt/left.asp?02.17.07>

518. The contributory rate is fixed at 2% or 4% (or 6% in the case of persons aged 50 and over joining the scheme), options demonstrated when joining the scheme.

Dir. Q. 31. Indicate if there is equal enjoyment by men and women of pension rights as regards the age of access, qualifying periods and amounts

519. Equality between men and women is guaranteed especially as far as pensions schemes are concerned including age, guarantee period and amount.

520. During the period analyzed, the new legal regime was published on the scheme of protection in the cases of disability and old age of the general social security system (Decree-Law no 187/2007, of 10th May), which the main aspects are mentioned below.

521. Regarding the method calculating retirement pensions, a general rule was established for the beneficiaries registered from 2002 and with a contribution career of: (i) 20 years or less; or (ii) over 21 years benefit from the full application of the calculating rules introduced by the previous regime (Decree-Law no 35/2002, of 19 February) provided for each of these groups.

With regard to beneficiaries registered until 31 de December 2001, who have complied with the guarantee period and start receiving their pension until 31 December of 2016 and those that begin receiving it from January 2017, will benefit from the application of a proportional formula of the previous scheme (1993) and from the regime introduced in 2002, therefore accelerating the transition period to apply the calculating method established in 2002.

522. The financial sustainability factor resulting from the ratio between the average life expectancy observed in 2006, and the average life expectancy observed one year before the due date of the pension, will be applied to old age pensioners receiving their pension as of January 2008 and to disability pensioners when converted into old age pension (which happens at 65 years).

523. There has been an alteration in the rules related to the flexibility of the retirement age. A penalty of 0.5% per month is applied if one decides to retire before the age of 65 instead of a reduction of 4.5% per each year of anticipation relative to the age of retirement, which did not ensure the actuarial and financial neutrality of the system.

524. The monthly pension bonus rate in case of extending active life over 65 years varies from 33% to 1% based on the number of the contribution years recorded on the date of the retirement pension request. The amount of the higher pension cannot exceed 92% of the highest reference salary taken into account for the calculation of the retirement pension. **Table 74. Annex**

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

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

Table 75. Annex – Social Security System - Active Beneficiaries, Years 2003 until 2007

Table 76. Annex – Number of Pensioners with Disability, Old Age and Survival, by Types of Pension and by Schemes

Table 77. Annex – Social Security System, Expenses with Pensions

Table 78. Annex – Social Security System, Social Security Expenses based on GDP

Dir. Q. 32. Provide information on social security programmes, including informal schemes to protect workers in the informal economy, in particular in relation to health care, maternity and old age.

527. Protection of maternity, paternity and old age is guaranteed through family benefits comprising contributory and non-contributory schemes mentioned in the previous items. The National Health Service care provides free medical treatment for everyone living on the territory.

528. >> See items 16 and 35 of the Report

Dir. Q. 33. Indicate to what extent non-nationals benefit from non-contributory schemes for income support, access to health care and family support.

529. Foreign workers residing legally in Portugal and in a vulnerable situation are entitled to the Social Integration Income (SII), maternity, paternity, adoption benefits and for particular risks, as well as, to family allowances provided in the law. Health care is also provided within the scope of the National Health Service.

530. Regarding asylum seekers, refugees and subsidiary protection, Law 27/2008 dated 30th June establishes the conditions and procedures for asylum or subsidiary protection and the status of asylum seeker, of refugee and of subsidiary protection, containing norms which ratio is connected to the protection of the right to work, to education, health, social security, motherhood and minors' protection (articles. 51 to 59 and 65 to 79) and articles 6, 7, 9, 10, 11, 12, 13 and 14 of the Covenant.

Article 10 – Family, motherhood and children

Dir. Q. 34 – Indicate how the State party guarantees the right of men and, particularly, women to enter into marriage with their full and free consent and to establish a family.

531. The 1976 Portuguese Constitution provides that the treatment within the family is the same for the husband and wife, as to the father and mother. Decree-Law no. 496/77 of 25 November, which came into force on 1st April 1978, introduced in the Portuguese Civil Code profound changes with the aim, among others, to recognize married women full equality with her husband, as an application of the general principle of non-discrimination on gender.

532. In Portugal, the minimum marrying age is 16, for both men and women. Under no circumstances it is possible to marry before then. Until reaching majority (18 years) neither boys nor girls can marry without their parents' consent or guardian, and in certain cases, such authorization may be supplied by the civil public register.

533. The desire to marry is an essential requirement, which is safeguarded by the law. The coercion is a motive for the invalidity of the marriage. All marriages are necessarily public registered.

534. After marriage, the legal status of individuals suffers modifications. Today the law establishes the same rights and the same duties for the husband and for the wife, and marriage is based on equality of both. The spouses run the family jointly. For the most important issues, like the choice of the residence of the family it is required their agreement, but the issues of day-to-day, any of them can take the necessary decisions.

535. The spouses must contribute to the costs of family life, according to their possibilities. The law does not distinguish between tasks that each must play and equates the value of professional work to the work with young children and with the family. A spouse may use the surname of another or just keep yours. The exercise of any profession or unprofessional activity (sports, civic, political or otherwise) is free for each spouse.

536. During the marriage, husband and wife have the same rights as the acquisition, administration, enjoyment and disposition of property in accordance to the property regime chosen. The default regime of property it is the communion of acquired, however, the parties have the freedom to choose different regimes. The management of common property is entrusted to both spouses, except on certain goods particularly attached to one, in which case this one only has the power of administration. In schemes of community property (general or acquired), the provision of properties on the consent of both spouses.

537. The layout of the house of the family and their furniture, whatever it is the system of property, it is subject to the agreement of husband and wife.

538. Article 36 of the CPR provides that everyone has the right to found a family on terms of complete equality. It also provides that parents have equal rights and duties as regards civil and political capacity and the upbringing and maintenance of their children.

539. In keeping with the spirit of article 10 of the International Covenant on Economic, Social and Cultural Rights, article 67 of the Constitution provides that the family, as the fundamental element of society, is entitled to protection by the Constitution and by the State.

540. The Portuguese Constitution recognizes maternity and paternity as eminent social values.

Dir. Q. 35. Provide information on the availability, coverage and funding of social services to support families, as well as on legal provisions in place to ensure equal opportunities for all families, in particular poor families, families from ethnic minorities, and single parent families, in relation to: (a) Child care; and (b) Social services that enable older persons and persons with disabilities to remain in their normal living environment for as long as possible and to receive adequate health and social care when they are dependent.

541. The expansion, development and qualification of the service network as well as social facilities for different populations and selected age groups constitute a major concern implemented through effective social solutions. Guaranteeing equal access to such facilities is based on a sustained increase of a service network and facilities, which provide social assistance to children, the elderly and people with disability, health care and education network.

542. The following programs were created to construct and/or extend social support facilities and increase the number of places in the referred infrastructures: **Programme to Support the Extension of Social Facilities (PARES)** created by Ministerial Order no 426/2006 of 2nd May for IPSS's and similar institutions. Aimed at increasing social protection in the fight against poverty and family protection; The **Programme to Support Investment in Social Facilities (PAIES)** for profit entities, created by Ministerial Order no 869/2006, of 29 August, aimed at supporting the development of the social facilities network by granting incentives for investment and the **Specific Measure to Support IPSS** created by Ministerial Order no 22/2008, of 14 April, defined the support to provide the IPSS's construction or completion of works, acquisition of equipment, development of social action activities combating exclusion.

543. In 2007, and referring to 1998, there was an increase of 36% in the total number of solutions amounting to more than 3.200 new social facilities. Therefore, in 2007, it was estimated that there were 12.241 facilities in Portugal, as noticed in **Graph 19. Annex - Evolution of the social solution per target population – Mainland Portugal - 1998 – 2007.**

544. **Graph 20. Annex - Investment evolution in services and social facilities (nominal values) – evolution 1998-2007**, refers to the investment evolution between 1998-2007 in services and social facilities showing an investment of 354 million Euros (nominal values).

i. Investment per target population, evolution 1998-2007

545. Not co-funded under the Program of Investments and Expenditures of Development of the Central Administration (PIDDAC) but showed an accentuated decrease in the value since 2001 due to the need to control budget deficit.

Graph 21. Annex - Financing investment –investment evolution according to target population – Projects not cofunded 1998-2007

546. In 2007, similar to the previous years, the highest percentage of the investment was in social facilities for Children and Young People (58.3%), followed by social solutions for the Elderly (24.6%) and People with Disability (10.8%).

Graph 22. Annex - Financing investment – investment evolution according to target population – Co-financed Projects – CSF III (POEFDS and PORLV) 2002-2007

547. From analyzing the co-financed Projects in the framework of Community Support Framework (CSF III) 2000-2006 (POEFDS¹⁰⁵ and PORLVT¹⁰⁶), we noticed that the total amount executed in 2007 was higher than the previous year, although the community component decreased. The greatest investment was in social facilities for Children and Young People (65.7%), the Elderly (21.9%) and People with Disability (8%).

a) – Children and Young People

548. **1.** Apart from the social solutions already indicated in previous reports, such as, nannies “amas”, day care centers, “creches”, pre-school establishments, centres for leisure activities, centre for holidays and leisure, reference should be made to the creation of the **Centre for Family Support and Parental Counselling – CAFAP**.

549. It is a new social solution developed through a service for the study and prevention of situations of social risk and to support children and young people at risk and their families, implemented in the community through multi-disciplinary teams and aimed at mainly to: promoting the study and assessment of the family’s psychosocial situation; prevent dangerous situations; prevent ruptures which may lead to institutionalization; strengthen the parenting skills of those involved in the family system; and promote mediation between the family and community services.

550. **2. Foster care** – Decree-Law no 11/2008, of 17 January, establishes the regime for foster care which is a system promoting rights and protecting children and young people at risk and consists in the child or young person’s trust in a family or person, technically competent. Also, aimed at integrating the child or young person in a family environment by providing him/her with the adequate means to meet his/her needs, well-being and necessary education for their full development.

551. It is a temporary measure used to returning the child or young person to his/her birth family, by empowering the birth family to care for them, it assumes special relevance in the interaction with the foster families and helps to strengthen the bond between the child or young person and birth family.

552. **3. Measures in a Natural Environment** - Decree-Law no 12/2008, of 17 January, establishes the regime implementing measures to promote and protect children and young people at risk in a natural environment, demonstrated as follows: support to parents, support to other relatives, trust in, and support towards life autonomy.

553. These measures aim at keeping the child or young person in his/her natural environment by providing them with the adequate conditions to their full development, through psycho-pedagogical and social support and when necessary with financial means.

¹⁰⁵ The Operational Programme for Employment, Training and Social Development

¹⁰⁶ the Lisboa and Vale do Tejo Region Operational Programme

554. Intervention is developed to ensure the families with the conditions guaranteeing the full development of the child and young person within the exercise of responsible parenting.

4. Social Solutions: Children and Young People

555. The solutions covering Children and Young People have shown throughout 1998 to 2007 in global terms an increase of 26.7%. There has been a slight slowing down in the restructuring of the Centres for Leisure Activities when comparing 2007 to the previous year.

Graph 23. Annex - Evolution of the social facilities for Children and Young People - 1998 – 2007

556. Since 1998, there has been an increase of 40.000 places regarding the installed capacity for this target population. When comparing it to 2006, we noticed a decrease in global terms due to the restructuring and closing of facilities. However, it should be mentioned that there has been an increase in the “creche” (day care for children) offer in the last years (3.8%), which improves the possibility of parents to choose and facilitate the reconciliation of work and family life.

Graph 24. Annex - Evolution of the social solutions for Children and Young People 1998 – 2007

b) – Elderly and People with disability/dependence, Family, Community

557. The protection of the elderly population has been implemented by the structures described in previous Reports and reinforced through a new social facility, a **Night Shelter**, for autonomous old people, who live alone, isolated or insecure and need assistance at night. It is a mechanism encouraging the elderly to remain in their natural environment as well as, prevent or delay their institutionalization.

558. There has been a very significant increase in Domiciliary Support and Night Centres relating to social facilities.

559. By establishing the **Housing Comfort Programme for the Elderly (PCHIS)** created by the Secretary of State and Social Security Decree no 6716-A/2007, of 5 April, aimed at preventing the dependence and institutionalization of older citizens by improving and qualifying housing.

560. In addition, specific regulation was published for large residential structures (Decree-order no 30/2006, of 8 May).

1. Social Solutions: Elderly.

Graph 25. Annex - Evolution of the social solutions for the Elderly - 1998 – 2007

561. In 2007, 6400 social solutions were identified for this target population. When comparing it to 1998, we noticed an increase of 48.5%, demonstrating an improvement in building new facilities for this group.

562. During 1998-2007, the Domiciliary Support Service has shown the highest growth rate (79.3%), followed by Day Shelters (40.6%) and Residential homes for the elderly (33%).

Graph 26. Annex - Evolution of the social solution capacity for the Elderly– Continental Portugal - 1998 – 2007

563. The Domiciliary Support Service has shown the highest growth rate in 1998-2007, confirming the policy developed along the years by selecting this solution as an alternative to delay the institutionalization of the elderly. Thus the installed capacity shows a growth rate of 111% that represented the creation of more than 42.200 places. The Day Shelter and Residential homes for the Elderly also demonstrate a tendency to increase their capacity, respectively, 30.2% and 29.2% since 1998.

2. Social Solutions: People with disability/dependence (children, young people and adults)

564. Since 1998 until 2007, over 200 social solutions were installed on the Mainland for this target population resulting in a growth rate of 53.1%.

565. The Centre for Leisure Activities (54.7%), and more specifically Residential Homes (96%), which almost doubled the number of units, constitute the social solutions which have known the greatest development in 2007, and in comparison with 1998, followed by Early Intervention and by Domiciliary Support (Home Care) with respectively 53.4% and 22.7%.

Graph 27. Annex - Evolution of the social solutions for Children, Young People and Adults with disability - Mainland Portugal -1998 – 2007

566. In comparison with 1998, the capacity was increased of approx 8400 places, representing a growth of 45%.

Graph 28. Annex - Evolution of the social solution capacity for Children, Young People and Adults with disability - Mainland Portugal - 1998 – 2007

567. The National Network for Continued and Integrated Care (RNCCI)¹⁰⁷, was created with the purpose of promoting quality of life and consolidation of a more solidarity based society by preventing, reducing the shortage of facilities which provide health care and social support in a continued and integrated form, to people who are in a situation of dependence regardless of age. This objective assumed the establishment of an integrated intervention model in conjunction with the health sector and social security by involving the participation and cooperation of civil society and the State. Since the beginning, 20 332 users were referred and 14 239 assisted in the RNCCI. During the 1st semester of 2008, there was an increase of 183% in the number of hospital solutions created as opposed to 2007. The RNCCI model defined four types of hospitalization, that is, until the first semester of 2008, there were over 2.366 occupied hospital beds: Convalescence Units (460), Average Stay and Rehabilitation Units (798), Long Stay Units and Maintenance (1.037) and Palliative Units (71).

Table 79. Annex - National Network for Continued and Integrated Care – Values until the first semester of 2008

568. In the first semester of 2008, the Global Occupation Rate for RNCCI Units was 95% and 6.400 citizens were examined in these units. More than 4.200 professionals were involved in the Portuguese territory, corresponding to a diversity of professional profiles (National Health Service, Social Security and health care providers within RNCCI), by strengthening the multidisciplinary characteristic of the RNCCI.

569. The RNCCI user profile shows the following characteristics: (a) mostly women (58%); (b) average age around 73 years¹⁰⁸; (c) most of the users over 80 years are women (57%) as opposed to men (20%); and (d) 18% lived alone.

570. Emphasizing the development of several measures within the RNCCI scope, namely:

- The implementation of a registration and monitoring system at national level of the *on line* Network.
- The improvement of the quality policy by starting monitoring visits with Local coordination Teams, totaling 80 visits. In parallel, the parameters for organizational audits and quality indicators emphasizing results for external auditors.

¹⁰⁷ Decree-Law no 101/2006, of 6 June

¹⁰⁸ 74 years for women and 72 years for men.

- The identification of the 12 more important units, with on the job training involving 38 professionals in conjunction with similar units of Catalunha (Spain); the realization of training periods, visits, workshops and seminars, as well as the identification of short term opportunities which can be improved for each unit.
- The creation of a single bio-psycho-social instrument (IAB), by providing a total of 215 training hours to all new RNCCI providers.
- The reinforcement and development of other professional competences corresponding to the execution of 15 training courses which covered 361 trainees during a total of 383 hours. In addition, 13 training initiatives were carried out covering 476 participants during a total of 156 hours. Covering all coordinating and reference instances care providers within RNCCI as well as, every professional profile and entire geographic area where the RNCCI is implemented.
- The elaboration of a medical handbook: Practical guide available on the RNCCI site and related to problems concerning medicine for the elderly.
- The creation of the “Programa Modelar” – a public investment programme “modelização¹⁰⁹” in different RNCCI facilities to create new places.
- The creation of new price Directives for RNCCI¹¹⁰ responses.
- The publication of Decree no 34/2007 on the reimbursement of RNCCI user.
- The publication of Decree no 28941/2007, of 20 December appointing the Working Group to implement the objectives mentioned in the National Palliative Care Programme.
- The publication of Decree no 1408/2008, of 11 January identifying the Units integrating the RNCCI.

3. Social Solutions: Family and Community.

Graph 29. Annex - Evolution of the social solutions for the Family and Community 1998-2007

571. In 2007, there was a slight increase noticed in social services relating to Cafeteria/Canteen.

Graph 30. Annex - Evolution of the capacity in the social solutions for the Family and Community 1998-2007

572. It should be mentioned that the first registers of the social solution Shelter House “Casa Abrigo” emerged only in 2000, showing an increase from that period until now.

Dir. Q. 36 – Provide information on the system of maternity protection in the State party, including working conditions and prohibition of dismissal during pregnancy. In particular, indicate: (a) Whether it also applies to women involved in atypical work and women who are not covered by work-related maternity benefits;(b) The duration of paid maternity leave before and after confinement and the cash, medical and other support measures provided during pregnancy, confinement and after childbirth; and(c) Whether paternity leave is granted to men, and parental leave to men and women.

573. Important improvements were introduced in the labor legislation regulating the protection of maternity, paternity and adoption included in the LC, and amended by Law no 99/2003, of 27 August.

574. Law no 35/2004, of 29 July, regulating the referred Code, also established the possibility for a working mother to extend the initial parental leave. This benefit in the amount of 25% of the reference pay corresponds to the period following the initial parental leave, a rule determining the necessary adjustment in social security, by adopting Decree-Law no 77/2005, of 13 April.

¹⁰⁹ Administrative rule no 376/2008, of 23 May.

¹¹⁰ Administrative rule 1087-A/2007 of 5 September and Administrative rule no 189/2008, of 19 February.

575. Therefore, protection in this domain covers most workers in general and is implemented as follows:

576. **1. Maternity benefit** – Corresponds to 120 consecutive days (including 90 days after childbirth) and in the case of multiple births 30 extra days per child since the first one.

577. The beneficiary can opt for 150 - day leave period, in this case 30 additional days must be taken after childbirth.

578. Possible entitlement to paid leave before giving birth, when there is a clinical risk to the employee or unborn child in the case of performing work considered unsafe for the period necessary to prevent the risk, according to medical prescription.

579. The benefit is equal to 100% of the average daily earnings¹¹¹, in the case of 120 days and 80% of daily earnings if the beneficiary opts for 150 days.

580. **2. Paternity benefit** - Five days, consecutive or not, during the first month after childbirth (previously 2 days).

581. As mentioned in the legal framework, the same period awarded to the mother can be granted to the father after childbirth, in the case of physical or mental incapacity of the mother, or in the event of the mother's death or based on a joint decision by both parents. However, in the case of the death of the mother, the minimum period awarded for the benefit has been increased from 14 to 30 days.

582. The benefit is equal to 100% of the average daily earnings. If the parents opt for a 150 – day leave period, the benefit is equal to 80% of average daily earnings.

583. **3. Adoption benefit** – The 100 – day period is the same as mentioned above. A 30 – day additional period is paid for each child adopted.

584. **4. Parental leave benefit** – the father is entitled to a benefit¹¹² for 15 days, but only if preceded by maternity and paternity leave.

585. **5. Special leave benefit for grandparents-** the benefit is paid for 30 days to the working grand-father or grand-mother following the birth of a grandchild if the parent of the newborn child is younger than age 16 and living in the family home.

586. The amount of these three benefits corresponds to 100% of the average daily earnings of the beneficiary.

587. Special benefits are provided: benefit for the care of ill or disable children, benefit for the care of severely disabled or chronically ill children and benefit in case of particular risks.

588. During this period, Decree-Law no 105/2008, of 25 June, defined social measures reinforcing maternity, paternity and adoption benefits integrated in the solidarity subsystem. On the other hand, Decree-Law no 105/2008, of 25 June, established social measures increasing social protection by awarding maternity, paternity and adoption benefits which guarantee earnings in the absence or loss of remuneration in vulnerable situations, determined by the inexistence or insufficient contributory career in the social protection scheme within the regulatory framework or by the exclusion of awarding the corresponding benefits of the social security system.

¹¹¹ The reference earnings correspond to mean income registered during the first 6 calendar months preceding the second month prior to the date determining protection.

¹¹² The father or mother are entitled to receiving an allowance paid for each birth or adoption of a child until 6 years of age, in alternation: to a 3 months parental leave; to work part-time during 6 months, during the normal working period but equal to half of the normal working time and when total duration of absence is equal to a normal working period of 3 months.

589. Social benefits are awarded during a given period to beneficiaries registered with social security and subject to conditions of residence and income, this latter being defined in view of the *per capita* household income does not exceed 80% of the Social Support Index (IAS).

590. The daily earnings correspond to 80% or to 64% of 1/30 of IAS, in the case of opting for a maternal leave of 150 days.

Dir. Q. 37. Indicate the measures of protection and assistance on behalf of children and young persons, including: (a) Age limits below which the paid employment of children in different occupations is prohibited under the law of the State party and the application of criminal law provisions in place punishing the employment of under-aged children and the use of forced labour of children;

591. The essential legal framework for the employment of minors is regulated by articles 53 to 70 of the LC, approved by Law 99/2003, of 27 August and regulated by Law 35/2004, of 29 July (RLC – Regulation of the LC). Be of minimum legal age (16 years) and have completed compulsory education, as well as having undergone a physical and psychological exam performed by a doctor.

592. However, there are exceptions to the minimum legal age, once minors concurrently fulfill the following requirements: being 14 years old; having completed compulsory education; may perform light duties¹¹³, in other words, “which consists in light work and defined not requiring inadequate physical or mental efforts ...”; and written consent from their parents or legal guardians.

593. The minor may also work, even without having completed compulsory education, if he is attending an educational or vocational training course that will enable him to complete compulsory education and/or acquire a professional qualification.

594. There are exemptions, nonetheless when minors may participate in cultural or artistic events and advertisement activities (article 70 of the LC) by means of specific conditions; this subject is the object of special legislation (articles 138 to 146 of the RLC).

595. In the case of hazardous child labor, that is, work which by its nature or the circumstances in which it is carried out, is likely to harm the health and safety of the child, it is prohibited or limited to minors for health and safety reasons enumerated in the RLC (in articles 116 to 121 and 122 to 126 respectively).

596. In 1993, as mentioned in article 2 of the report, the Office of the Ombudsman created the green line “Message from Children”, which receives the complaints related to children who are at risk, formulated by them or by adults on their behalf. The phone number is 800206656, and the call is free.

597. The most frequent cases are related to situations of negligence as to the safety, health, welfare and education of the children, physical ill treatment, abandonment, family needs, parent power regulation and school difficulties. The line operates every working day from 9h30 a.m. to 5h30 p.m. and receives messages outside this schedule. It calls, when problems do really exist, the Commissions for Protection of Children and Youth, the Regional Centres for Social Security, the Social Reinsertion Institute, the Ministry of Education and the General Inspectorate of Education, the Courts, the adoption services, the Borders and Aliens Service (SEF).

113) Defined in article 115 of Law 35/2004 of 29 July 2004. For this effect, light work is not considered as prohibited or restricted to minors (Articles 122 to 126). Light work is not considered as: exceeding seven hours a day or thirty five hours a week; it includes a period of over four hours without interruption for a minimum break of one hour; does not ensure a minimum daily rest of 14 hours between the periods of 2 consecutive working days; not include a monthly rest period inferior to two days; involves night work (for ex: between 8pm and 7am of the following day).

Q. 37 - (b) Whether any national survey has been undertaken in the State party on the nature and extent of child labour and whether there is a national action plan to combat child labour;

598. The notion of unlawful child labour, no longer applies in Portugal, as a result of consistent policies and information gathering that have enabled a coordinated approach and integrated measures for the social inclusion of all children, in particular those coming from disadvantaged and poor families and groups.

599. However the AWC has been conducting an inspection activity in terms of the minimum age of admission and education of minors employed, in entertainment, publicity and similar activities, compliance with communication and authorization duties, transfer of civil liability because of work accidents and health surveillance.

600. Also, among the measures taken to eliminate child labour, are the creation, in 1998, of a research and statistical framework (SIETI) – System of Statistical Information on Child Labour) to provide accurate information on the extent of child labour in Portugal and setting up a policy team (PETI – Programme on the Elimination of Child exploitation) to design and develop concrete interventions and measures to prevent the early entry of children into active life, mainly through the Integrated Program of Education and Training (PIEF). Also as part of its policy to have a more informed debate on child labour the government conducted two household surveys in 1998 and 2001.

601. Indeed, since 1998 to 2009 PETI had obtained significant results in the elimination of child labour. In September 2009, its competencies in relation to preventing and combating against child labour were transferred to the Authority for Working Conditions (AWC) and the social inclusion objectives were reinforced through the creation of PIEC - Programme for Social Inclusion and Citizenship, which continued to develop a wide range of measures to prevent school drop-out and any form of child exploitation.

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

Q. 37 - (c) The impact of measures taken to protect children against work in hazardous conditions harmful to their health and against exposure to various forms of violence and exploitation.

603. The intervention of the **Plan on the Prevention and Elimination of Child Labor** (PETI) detects children and young people at risk of dropping out and/or of child labor, at risk of social exclusion and economic exploitation. After identifying the school, family and socio-economic situation of the young person, alternative pathways which involves returning to school, integration in education and training courses or integration in the Integrated Education and Training Programme (PIEF). Since 1999, this measure has supported 11.985 young people in completing compulsory education. It is a measure on preventing the early integration of young people in the labor market.

604. Information was submitted regarding PIEF within the scope of *Core Document* and Third Report on the *Convention on the Rights of the Child*.

605. In line with the social security system, protection of children and young people lies within the framework and implementation of: i) Awarding cash benefits, granted in the family protection subsystem, aimed at compensation for family charges, protection of disability and dependency, covering most of the resident population in Portugal, and the right to this benefit does not depend on the existence of contributory careers; ii) Availability of infrastructures and social services provided by the social action subsystem.

606. In line with the AWC action, it is important to bear in mind the information provided in item 16, no 2 b).

607. As far as criminal protection is concerned, Portugal has amended its Criminal Code in 2007 (Law 59/2007, of 4th September) in order to introduce a specific provision on the violation of security rules (article 152-B) criminalizing the subjection of a worker to hazardous conditions or to the danger of serious offenses to his body or health in disrespect of laws or regulations.

608. This conduct is punishable with an imprisonment penalty of one to five years, aggravated if the conduct results in a serious offense to physical integrity (two to eight years) or death (three to ten years). Negligence is punishable.

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

Dir. Q. 38. Provide information on the legislation and mechanisms in place to protect the economic, social and cultural rights of older persons in the State party, in particular on the implementation of laws and programs against abuse, abandon, negligence and ill-treatment of older persons

610. Regarding the elderly population, it should be mentioned that the information which follows is referred in items 29 and 35:

- Solidarity Supplement for the Elderly - CSI
- Increase facilities for the Elderly
 - Social Facilities Programme
 - Programme to Support the Extension of Social Facilities - PARES
 - Requalification and safety programme for social infrastructures
- National Network for Integrated Care - RNCCI
- Housing Comfort Programme for the Elderly - PCHI

Dir. Q. 39. Provide information on the economic and social rights of asylum seekers and their families and on legislation and mechanisms in place for family reunification of migrants.

611. Building on the constitutional recognition of the right of asylum as one of the fundamental rights and on a broader refugee definition compared with the 1951 Geneva Convention, the new Law on Asylum adopted in 2008 has been very well received.

612. Amongst its major improvements is the possibility for the Portuguese Refugee Council (national NGO) to legally represent asylum-seekers as well as the suspensive effect given to all jurisdictional appeals during the asylum procedure.

613. The Asylum law has a specific chapter on particularly vulnerable cases (minors, unaccompanied minors and victims of torture and violence), namely in regard to social support, family

members tracking and confidentiality of information. Moreover, the Law provides for special safeguards for unaccompanied minors.

614. In case of applications at a border point, the Asylum Law requires the retention of asylum seekers in the international area of the airport during the duration of the admissibility stage. In the particular case of unaccompanied minors, this temporary accommodation shall “follow special conditions in accordance with international recommendations namely by UNHCR, UNICEF and ICRC. The practice followed by the Borders and Aliens Service (SEF) has been allowing their immediate entrance in national territory and their referral to the Reception Centre of Bobadela, which is managed by the Portuguese Refugee Council, for an initial period of 6 months renewable, under the supervision of the social services. This Centre responds to the basic needs of asylum seekers (food, clothing, pocket money and Portuguese tuition classes) during the admissibility phase.

615. The construction of a reception centre exclusively for unaccompanied minors has already been approved and will soon be started.

616. Before 2008, even though 2 asylum requests had to be submitted (one for the husband and another for the wife), the 2 requests were registered together. This procedure has now been changed and each process is registered separately.

617. As another example of the special attention paid to women in the context of the Asylum Law, it is worth mentioning that acts of physical or mental violence, including acts of sexual violence and acts committed specifically in terms of gender or against minors are amongst the Acts of Persecution that are susceptible to ground the right of asylum, if sufficiently serious by their nature or repetition as to constitute a severe violation of basic human rights.

618. Indeed, the new Law, which establishes the conditions and procedures for granting asylum or subsidiary protection and the status of asylum, refugee and subsidiary protection to applicants, determines, both for the normal procedure and for the special procedure of granting asylum, that the decision on the admissibility of the request for asylum status may be appealed to the Portuguese Administrative Courts and that this appeal has suspensive effect.

619. In recent years, Portugal has been receiving around 30 refugees per year from “vulnerable groups”: i) persons from a country or region selected to the execution of a programme of regional protection; ii) children’s without any adult tutorial support; iii) children and women at risk; iii) people with need of special medical treatment. The United Nations High Commissioner for Refugees’ Criteria for Determining Resettlement as the Appropriate Solution is also taken into account.

620. In 2009, Portugal received 4 nationals from Iraq, which were in Syria, and 12 nationals from the Democratic Republic of Congo, which were located in Tanzania, and is shortly to receive another group of 16 refugees (of different nationalities) currently in Ukraine. We are sparing no efforts in order to receive this group until the end of December and to complete the evaluation of UNCHR applications to receive another group of 17 Palestinian refugees currently in Syria.

Dir. Q. 40 – Indicate:

a) Whether there is legislation in the State party that specifically criminalizes acts of domestic violence, in particular violence against women and children, including marital rape and sexual abuse of women and children and the number of registered cases, as well as the sanctions imposed on perpetrators

621. It is particularly relevant the criminal reform carried out in 2007¹¹⁴ that has introduced changes in what concerns domestic violence, trafficking in human beings and female genital mutilation, namely:

622. **Domestic Violence** is now an autonomous a typified crime punishable by 1 to 5 years of imprisonment with a more detailed understanding of what is physical and psychological abuse; the category of victim was extended in order to include ex-spouses or person with whom the victim maintains or has maintained a spousal relationship even if living in separate households; in what concerns **Trafficking in Human Beings**, the Penal Code establishes a definition of the concept which now includes, apart from sexual exploitation, labour exploitation and the extraction of organs adopting specific categories for this type of crime and punishing those who knowingly use the sexual services of victims of trafficking. This type also criminalises withholding, hiding and destructing identification or travelling documents also including the punitive measures for collective entities. Finally, the Penal Code now includes a disposition that relates to the matter of female genital mutilation by considering criminal offence the abuse of the body or health of another person hindering the person's ability to sexual fulfilment.

623. Law No. 7/2000 of 27 May 2000 made public the crime of ill treatment of the spouse or partner, which means that not only the victims but also anyone who knows about such cases of violence can lodge a complaint and/or institute proceedings. Police authorities are obliged to inform the prosecuting authorities if they know of such crimes.

624. Since 2007, Domestic Violence became, for the first time, a typified crime (article 152), by 1 to 5 years of imprisonment under the **Criminal Code**. With the inclusion of the new article 152, whoever, in a repetitive manner or not, imposes physical or mental abuses, including bodily punishments, deprivations of liberty and sexual offences to the spouse or ex-spouse; to a person of another or of the same sex with whom the agent maintains or has maintained a relationship equal to a relationship of spouses, even if without cohabitation; to progenitor of common descendant in first degree; or to a person particularly undefended, due to age, deficiency, disease, pregnancy or economic dependency, who cohabitates with him, is punished with sentence of imprisonment from one to five years. If the agent commits the act against a minor, in the presence of a minor, in the common domicile or in the victim's domicile is punished with sentence of imprisonment from two to five years. If, from the acts referred to above, results death, the agent is punished with sentence of imprisonment from three to ten years and in the cases where it results grievous bodily injury, the agent is punished with sentence of imprisonment from two to eight years.

625. Bearing in mind the need to prevent recidivism and re-victimization, the Criminal Code foresees as accessory sentences the prohibition to contact the victim and the prohibition to use and carry weapons, for a period from six months to five years, it also foresees obligation to attend specific programs for the prevention of domestic violence. The accessory sentence of prohibition to contact the victim may include distance from the victim's residence or place of work and its compliance may be supervised by remote technical means. The agent convicted by a crime of domestic violence may also, considering the concrete seriousness of the act and its connection with the function performed by the agent, be hindered from parental power, tutorship or curatorship for a period from one to ten years.

626. Under the Criminal Code, the killing of the partner, ex-partner, person of the same sex or different sex with whom the offender has or had a relationship analogous to that of partners, even without cohabitation, or against a progenitor of common descendant in the first degree, is held to be qualified murder, punishable by 12 to 25 years of imprisonment (article 132).

627. On the other hand, as a result of this reform, article 200 of the **Criminal Procedure Code** on the prohibition and imposition of conducts, in the pre-sentence phase, enhances the prohibition of the defendant to contact the victim, by any means, and adopts preventive measures regarding the no

¹¹⁴ Introduced by the Law no. 48/2007, of 29 August, that has amended the Criminal Procedure Code and by the Law no. 59/2007, of 4 September, that has amended the Criminal Code.

acquisition or use or even the delivery, within the established period, of weapons or other objects that he holds, capable to facilitate the commission of another crime. This article also foresees that the defendant, on prior consent, may be submitted to treatment of the dependence he suffers and that has favoured the commission of the crime, in an adequate institution. This last question is especially relevant, considering that in most cases, domestic violence appears connected to pathologic dependences.

628. Concerning the provisional suspension of a process, determines that such measure is possible when several conditions are met. Under the new law, other conditions were included: absence of previous convictions for a crime of the same nature (instead of criminal antecedents); the absence of a previous application of this measure in the context of a crime of the same nature; the absence of a high degree of guilt.

629. Separately or cumulatively, certain rules of behavior can be imposed to the offender: to undertake a service of public interest, besides the payment of a donorship to a State or Private Institution of Social Solidarity; prohibition to live/be in determined places; attendance of certain programs and activities; prohibition to frequent or attend certain associations and meetings.

630. In domestic violence cases which are not aggravated by the result, the prosecution may, at the explicit and voluntary request of the victim, decide to suspend the process, with the agreement of the judge and the offender, once two conditions are met: if there was no previous application of this measure in the context of a crime of the same nature, and no previous conviction for a crime of the same nature. In cases of domestic violence, the maximum period of the suspension is 5 years.

631. The Law 112/2009, 16th September intends to prevent and repress domestic violence behaviors as well as to support and promote the autonomy and empowerment of the victims. It seeks to provide a more adequate answer unifying the laws regarding this matter. Therefore, it disciplines certain issues such as the National Network of Shelters for Women Victims and the Social protection of the victims, themes once disciplined by another laws now repealed.

Table 80. Annex - Number of occurrences per year since 2000

632. **Rape in marriage** may be considered a form of domestic violence. According to article 152 of the Criminal Code, whoever, in a repetitive manner or not, imposes physical or mental abuses, including bodily punishments, deprivation of liberty and sexual offences to the spouse or ex-spouse is punished with imprisonment from one to five years, if a more serious punishment is not applicable to him by virtue of another legal provision.

633. As already mentioned the 2007 amendment to the Criminal Code introduced the domestic violence as an autonomous crime comprising also sexual abuse.

634. On the other hand, regarding the provision of article 164, which specifically foresees rape, the aggressor may be punished with imprisonment from three to ten years. Whoever, by means of violence, serious threat or after having rendered, for such purposes, another person unconscious or incapable of resisting, constrains such person: *a)* to suffer or to commit, with himself or with a third party, copula, *coitus per anum* or oral sexual intercourse; or *b)* to suffer vaginal or anal penetration with parts of the body or objects is punished with of imprisonment from three to ten years.

635. Under the Law 59/2007 (September 4th), the article 164 of the Criminal Code suffered some changes. The article above mentioned defines Rape as follows:

“1 – Those that, through violence, threats, or after inflicting unconsciousness or impossibility to resist, restrain another person with intent to: a) Perform forced intercourse, anal coitus or oral coitus with him/herself or with another; or b) Perform forced anal or vaginal insertion or body parts or objects;

are punished with a prison sentence of three to ten years.

2 – Those that, through means not enclosed in n° 1 and abusing authority inherent of a family relationship, tutelage or wardship, hierarchical dependency, economical or work-related, or by taking advantage of fear inflicted, coerce another person to: a) Perform forced intercourse, anal coitus or oral coitus with him/herself or with another; or b) Perform forced anal or vaginal insertion or body parts or objects;

are punished with a prison sentence of up to three years.”

636. The article 171 of the Criminal Code, according Law 59/2007, defines Child Sexual Abuse as follows:

“1 – Those that perform a relevant sexual practice with or on a child under 14 years of age, or facilitate another to perform such practices is punished with a prison sentence of one to eight years.

2 – If the relevant sexual act consists of intercourse, anal coitus, oral coitus or the vaginal or anal insertion of body parts or objects, the active individual is punished with a prison sentence of three to ten years.

3 – Those that: a) Harass a child under 14 years of age through the practice of the acts described in article 170º; or b) Act upon a child under 14 years of age through conversation, writing, show or object of a pornographic nature;

are punished with a prison sentence of up to three years.

4 – Those who perform the actions described in number 3 with the intent of making a profit is punished with a prison sentence of 6 months up to five years.”

637. One of the consequences brought to us by the Criminal revision, conducted by the Law 59/2007, was the introduction in the Portuguese criminal code of the concept of Sexual Harassment. The previous Criminal Code did not contain specific provisions concerning this specific action of sexual nature.

638. Therefore, the article 170 describes Sexual Harassment¹¹⁵ as follows:

“Those that harass another person by performing before him/her actions of an exhibitionist nature or restrain him/her to contact of a sexual nature are punished with a prison sentence of up to one year or with a fine up to 120 days if the prison sentence is not applicable due to another legal decree.”

Q. 40 - b) Whether there is a national action plan to combat domestic violence, and the measures in place to support and rehabilitate victims

639. As already mentioned in article 3 of the report, Portugal adopted its **III National Plan against Domestic Violence (2007-2010)**¹¹⁶ with a focus on violence inflicted on women in their domestic environment.

640. The Plan was structured in accordance with a model that defines five areas of strategic Intervention: 1) Informing, raising awareness and educating; 2) Protecting victims and preventing revictimisation; 3) Empowering and reinserting victims of domestic violence; 4) Qualifying professionals; 5) Learning more about the domestic violence phenomenon.

¹¹⁵ The prohibition of harassment and sexual harassment is recommended both in the Labour Code and the Regime of Employment Contract in Public Functions. This prohibition is provided for workers of both sexes.

¹¹⁶ Resolution of the Council of Ministers no 83/2007, of 22nd June

http://www.portugal.gov.pt/pt/Documentos/Governo/PCM/Prop_3_Plano_Contra_Violencia_Domestica.pdf

641. It points clearly towards a consolidation of a policy of prevention and fighting against domestic violence, by promoting a culture for citizenship and equality, strengthening information and training campaigns, and supporting and sheltering victims in the logic of reintegration and autonomy. This Plan also constitutes a challenge to the articulation between various institutions that work in that area, namely those that support victims and those that direct their intervention towards the aggressors. In the first place, the intention was to develop a national strategy that had impact on the change in mentalities, empowerment, and auto-determination of the victims, and on the reduction of the risk of revictimisation. On a whole, the present Plan includes a total of eighty-nine measures¹¹⁷.

642. The second area of strategic intervention of the plan, which provides 34 measures, is structured in accordance with the various responses within the legal-criminal code and social aspects, and is directed towards the integral **protection of the victims**. Some are mentioned as follows:

643. i. Reformulate the normative framework that regulates access to the law by the victims of Domestic Violence

- Define a regime of granting legal support based on the assessment of economic insufficiency only on the income of the petitioner when there is a dispute that opposes one or more members of the household;
- Define a regime that assures, preferentially, the appointment of the same mandatory or public defender to the victim, when the same fact leads to various legal actions;
- Widen the concept of aggregation in order to guarantee a unitary treatment of the processes related to domestic violence;
- Establish partnerships between the NGOs, Bar Association, Social Security, and the Ministry of Justice, keeping in mind the regime of access to the law and legal consultation.

644. ii. Review Law 129/99, of 20 August, relative to the advanced payment, by the State, of indemnities to the victims of conjugal violence.

645. iii. Create in the sites of the security forces, GNR and PSP, an area relative to the subject of Domestic Violence, containing information, behaviors to be adopted, and the possibility of filing an electronic complaint/accusation.

646. iv. Monitor and follow-up on the application of the standard police reports relative to complaints or accusations of domestic violence:

- Collect good practices in the application of the current model of the standard police report;
- Implement the database on domestic violence to gather and analyze statistics of accusations and occurrences reported to the security forces;
- Assess and consequently improve the model.

647. v. Implement an experimental programme of application of electronic means of surveillance to the distance applied to the aggressor subject to legal restraining orders.

648. vi. Define and implement prevention programmes to avoid the repeated offending of the aggressors:

- Adapt the pedagogical curricula of prevention programmes selected from amongst those most recommended internationally;
- Select the strategic partners for the pilot projects of implementation of prevention programmes;
- Design and implement the strategies, procedures, and other materials that sustain the practices of the partners that integrate the pilot projects.

¹¹⁷ Until September 2009, more than 60% of these measures are already accomplished.

649. A considerable investment has been made in the quantity and quality of **psychosocial responses** – crisis centres, emergency helplines and shelters by public bodies and civil society.

650. A free domestic violence victim information helpline has been in operation since 1998 to give victims information, support and advice.

651. A National Network of Domestic Violence Centres was set up in 2005 to provide an integrated response to cases of domestic violence and improve on existing resources. As this support network is complementary to the shelters network priority was given to setting up crisis centres in the districts where there was no support for victims. Coverage of the whole country was achieved in January 2009 (18 districts).

652. There are 35 shelters¹¹⁸ that include near 500 places for women victims of domestic violence and their children, which cover whole national territory (in 2008 - 1.500 victims).

653. In 2006 an assessment commission was set up to evaluate the shelters quality¹¹⁹. It submitted a final report on its findings in October 2006.

654. Mutual Support Groups for women victims of domestic violence have been created and are functioning.

655. The report provided for by Council of Ministers Resolution 17/2006, of 12 January, assessed the appropriateness of the use of electronic surveillance methods to control offenders' movements and measures to keep them away from their family homes. An experimental programme of application of Electronic means of surveillance applied to perpetrators of domestic violence subjected to legal restraining measures or sanctions has been launched in April 2009 and will end in 2011. In addition, an experimental programme of 24 hours telephonic assistance to victims of domestic violence is under preparation and will be launched in June of 2010.

656. Four of the five Regional Health Administrations, are involved in partnership with CIG and other institutions, in pilot experiences with a view to create networks of multidisciplinary services for the appropriate detection of domestic violence, for its follow-up and for an intervention. These pilot experiences aim at promoting integrated approaches and concrete proposals in terms of action and legislation in the areas of the protection of victims and prevention of the revictimisation. This includes the **creation of specific responses for Domestic Violence in health care units**, such as psycho-social support in big hospital emergencies, to facilitate access of the victims to health consultations.

657. A leaflet addressed to victims of domestic violence providing advice on how to increase personal safety has been produced and will be launched in June 2009.

Q. 40 - c) Public awareness-raising measures and training for law enforcement officials and other involved professionals on the criminal nature of acts of domestic violence.

658. Since 2005, and every year, several campaigns were waged against violence against women. These campaigns used different media channels and involved civil society and bodies dealing with domestic violence; they also mobilized social agents from the areas of health, education, social intervention, local authorities, etc. These campaigns included several initiatives such as training, seminars and debates, distribution of campaign materials in sports events and to specific publics such as youngsters. Portugal also disseminated the Council of Europe's Campaign to Combat Violence against Women, including Domestic Violence, between October 2007 and January 2008.

¹¹⁸ All shelters' internal regulations must be approved in advance by the Commission for Equality and Women's Rights, so that their organisation is standardised and validated.

¹¹⁹ Regulatory Decree no 1/2006, of 25th January, regulates the organisation, operation and supervision of shelters.

659. In November 2008 was launched another nationwide one year campaign targeted at teenagers and young adults and focusing the “prevention of violence in dating relationships”. The awareness-raising materials created for this purpose unveil the gender stereotypes presiding to violence in dating relationships and are having a strong success producing changes of values and attitudes in youngsters. During this period awareness raising activities are being developed, such as training sessions, exhibitions, events in schools, sports competitions and leisure and public spaces.

660. In November of 2009 a new campaign was launched in Portugal by CIG, in collaboration with the Portuguese Youth Institute (IPJ) along with 21 other countries: “Maltrato Zero”¹²⁰. This initiative was first considered on the XVIII Ibero-American Conference of El Salvador, held in 2008 and then carried out by the Ibero-American Organization and the Ibero-American Youth Organization (IJO).

661. Since November 2009 till 2010, this collective action is taking place in 22 Ibero-American countries, and the message of the campaign seeks to unite all the Latin American society, especially the youth, to commit against inequality and against gender violence. This movement aims to reach out an estimated population of 150 million people through the aid of the most various Media paths such as the official site, radio spots, television, posters, information, data on domestic violence, statements, declarations and others. All the material was produced in Portuguese and Spanish.

662. The visibility of the phenomenon was increased in debates and news reports on the problem on radio and television as well as in the press. In schools, there has been considerable involvement on the part of teachers and students in written and graphic works, among others, on the subject of domestic violence. Awareness-raising campaigns were waged in schools, involving students and teachers, and at local authorities, as these activities were considered the best form of primary prevention, which is a priority of the Second and Third National Plans against Domestic Violence.

663. Since 2005, training courses are systematically given to police officers on issues related to violence against women, including trafficking for sexual exploitation.

664. Following the training in trafficking in women, under the CAIM Project¹²¹, the Public Security Police included, in 2007, in its course for proximity police, a module on trafficking in human beings.

665. Additionally a training kit was put together for specific action in trafficking of women for sexual exploitation. This modular kit contains training materials and resources for different audiences working either on prevention or on support and protection.

666. A resources guide was published in 2006 listing all existing public and private resources in the area of domestic violence. It was distributed to the entities and practitioners providing direct or indirect support in the area.

667. In January 2006, a standard notification was created, which makes it possible to gather more accurate, detailed statistics on domestic violence recorded by the police. This form allows the analysis of several variables characterizing the victim, the perpetrator and the context of the aggression thus allowing the production of reliable internationally comparable indicators on the extension and configuration of the phenomenon.

¹²⁰ <http://www.maltratozero.com/>

¹²¹ Cooperação/Ação Investigação/Mundivisão [Cooperation, Action, Investigation, World View] funded by the EU EQUAL Initiative, which had its greatest impact between 2004 and 2008.

CAIM is a groundbreaking project in Portugal and involves a partnership taking multiple actions to deal with the problem of trafficking - the investigation components including the fight against and monitoring of those benefiting from the crime, through the Ministry of Justice and the Ministry of Internal Administration, which oversee the criminal police, and the components of victim protection and support through the Presidency of the Council of Ministers (Commission for Equality and Women’s Rights and the High Commissioner for Immigration and Intercultural Dialogue), International Organisation for Migration and the Family Planning Association.

668. Under the Integrated Program of Proximity Policing¹²² proximity and victim support teams were created. Among the purposes of these teams are the prevention of domestic violence, support of the victims and follow-up after violence. In 2006 there were 240 agents in these teams, divided amongst all 22 sub-units (one in each metropolitan and regional command). This pilot-project will be extended to other sub-units. Considerable progress has been made in police and judicial practices, thanks also to the growing investment by the ministries concerned in awareness campaigns and training of police and prosecutors, speeding-up of judicial and police evidence-gathering procedures, charges and appropriate penalties for offenders.

669. Initial and ongoing multidisciplinary training of the target populations most directly involved in assisting and protecting victims of domestic violence, i.e. police officers, experts from NGOs, prosecutors, healthcare professionals and lawyers, social workers, shelter teams and the general public, among others was a ongoing activity of CIG over this period.

670. During 2005, the Internal Security Coordinating Office implemented the training of 260 staff members of the police authorities on Violence against Women. Topics included sociological comprehension of the phenomenon, interviewing techniques, support to and referral of victims and perception of the violence cycle. Following this initiative, the Public Security Police replicated the trainings and in May 2006, 394 training actions involving 7496 staff members had already been organized.

671. In 2005, 2006 and the first half of 2007, several national and international seminars were organized by the Domestic Violence Taskforce and by civil society organizations providing an opportunity to share, update and systematize knowledge in the area. Some examples are the seminars “Prevention of Domestic Violence: local policies and proximity intervention”, “Domestic Violence: Integrated Intervention”, “Health and Domestic Violence”, “Equality Policies – Gender Violence, and Shelters: Feminist Intervention for different audiences”.

672. There were also courses requiring articulation with Portuguese and foreign entities, such as the courses “Violence in Intimate Relationships – Crisis Intervention”, “Creating a Process of Change for Men who Batter” and “*Por nuestro Bien: un proceso de Cambio Personal y Social*”, the last two provided by trainers from the Duluth Domestic Intervention Project, which has been considered a reference in UN studies and documents.

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

674. An ongoing activity of awareness raising initiatives aimed at the population and technical staff working with victims and aggressors was undertaken combined with initial and continuous qualification of security forces, judicial workers, health professionals and others, such as professionals of social action and civil society’s organizations.

Dir. Q. 41- (a) Indicate whether there is legislation in the State party that specifically criminalizes trafficking in persons and the mechanisms in place to monitor its strict enforcement. Also indicate the number of reported trafficking cases from, to and through the State party, as well as the sentences imposed on perpetrators.

i. Specific legislation on trafficking in persons

675. In the period covered by the report Portugal had in place legislation that specifically criminalizes trafficking in persons. The Penal Code, amended by law 59/2007 of 4 September,

122 Strategic Directive 10/2006, of 15 May, of the Public Security Police

provides in article 160 a new definition of *Trafficking in Human Beings* that includes, apart from sexual exploitation, labour exploitation as well as the extraction of organs. It also punishes those who knowingly use the sexual services of victims of trafficking. In addition, it criminalises the withholding, hiding and destructing of identification or travelling documents and foresees legal persons criminal liability.

676. Article 160 - Trafficking of persons

“1 – Whoever offers, delivers, allures, accepts, carries, accommodates or receives a person for sexual exploitation purposes, work exploitation or organs removal: a) By means of violence, kidnapping or serious threat; b) Through artifice or fraudulent manipulation; c) With abuse of authority resulting from a hierarchical, economic, working or familiar dependence relationship; d) Taking advantage of mental incapacity or of a situation of special vulnerability of the victim; or e) By means of the attainment of the consent of the person who has control over the victim;

is punished with sentence of imprisonment from three to ten years.

2 – The same sentence is applicable to whomever, by any means, allures, carries, proceeds to the accommodation or receiving of a minor, or delivers him, offers him or accepts him, for sexual exploitation purposes, work exploitation or organs removal.

3 – In the case foreseen in the previous number, if the agent uses any of the means foreseen in the paragraphs of no. 1, or acts professionally or with profitable intention, is punished with sentence of imprisonment from three to twelve years.

4 – Whoever, against payment or other compensation, offers, delivers, requests or accepts a minor, or attains or grants consent for his adoption, is punished with sentence of imprisonment from one to five years.

5 – Whoever, being aware of the commission of the crime foreseen in nos. 1 and 2, uses the services or organs of the victim is punished with sentence of imprisonment from one to five years, if a more serious sentence is not applicable to him by virtue of another legal provision.

6 – Whoever retains, hides, damages or destroys identification or travel documents of a person victim of a crime foreseen in nos. 1 and 2 is punished with sentence of imprisonment for not more than three years, if a more serious sentence is not applicable to him by virtue of another legal provision.”

ii. Mechanisms in place to monitor its strict enforcement:

677. Besides the criminal justice system itself, some should be mentioned:

(a) Permanent Observatory of the Portuguese Justice

678. Established in 1996 at the Center for Social Studies (CES), School of Economics, University of Coimbra, through an agreement signed with the Ministry of Justice.

679. The main tasks of this Observatory are to monitor and analyse the performance of the courts and other related institutions and activities, the police, prisons, rehabilitation services, etc. Moreover, the observatory assesses the reforms introduced, suggests new reforms and carries out comparative studies inside and outside the European Union. Studies on the law and justice are also part of its objectives.

680. In this context, it was carried out, by request of the Ministry of Justice, the monitoring of the last penal reform, introduced in 2007. The central objective of this study was to assess the effectiveness of the reform on a systemic perspective, given the intended purpose of the law, considering their impact on organizations and actors and procedural efficiency of the response of the criminal justice system, identifying problems and proposing recommendations, legal, organizational or other, considering the system in an integrated manner.

(b) Portuguese Ombudsman

681. According to Article 23 (1) of the CPR “*citizens may submit complaints against actions or omissions by the public authorities to the Ombudsman, who shall assess them without the power to take decisions and shall send the competent bodies such recommendations as may be necessary in order to prevent or make good any injustices*”.

682. Furthermore, the statute of the Ombudsman, established by Law 9/91, of 9 April (amended by Law 30/96, of 14 August, and Law 52 A/2005, of 10 October), confers to the Ombudsman the authority “*to address recommendations to the competent bodies with a view to correct illegal or unfair acts of public authorities or to improve their services, to point out shortcomings in legislation, make recommendations concerning its interpretation, amendment or revocation, or suggesting the drafting of new legislation. Such recommendations or suggestions shall be forwarded to the Speaker of Parliament, to the Prime Minister and to the Ministers directly involved and, where applicable, to the Presidents of the Regional Legislative Assemblies and to the Presidents of the Governments of the Autonomous Regions*”.

(c) Justice Statistics

683. The Directorate-General for Justice Policy (DG PJ) is the body, within the Ministry of Justice (MJ) responsible for the justice statistical data.

684. Empowered by the National Statistics Institute (INE), it is entrusted with the collection, use, treatment and analysis of the justice statistical data as well as their dissemination within the national statistical framework.

685. In the context of the justice statistical data system of the DG PJ, the *Hermes Project* was launched in 2007. It is a restructuring project created with the objective to overcome the limitations and insufficiencies of the previous statistical collecting method by modifying the collecting method of statistical data, better scan and analyse the recorded figures, and to make available the statistical data on line.

(d) Observatory of Trafficking in Human Beings

686. Created by Decree-Law no. 229/2008 of 27 November, the Observatory is the body, within the Ministry of Internal Affairs, responsible for *a)* collecting information related to the human trafficking and other forms of gender violence, *b)* promoting the development of computer applications which support the collection and treatment of the information, as well as *c)* for giving support to policy making in their areas of intervention.

iii. Action taken by AWC on Exploitation and traffic in human beings

687. The AWC action relating to exploitation and traffic of human beings was aimed at identifying and reporting to the competent authorities, situations indicating traffic and exploitation of human beings, specifically in night clubs, industry, brothels “*casas de alterne*” and similar ones, agriculture, construction and seasonal activities.

Table 81. Annex – Exploitation and Human Trafficking

688. In 2008, 15 inspection visits were conducted to detect situations of exploitation and human trafficking, which resulted in the identification of several offences committed and punishable with a fine of €2.880.

Dir. Q. 41- (b) Whether there is a national plan of action to combat trafficking and the measures taken to support victims, including medical, social and legal assistance.

i. National Plan against Trafficking in Human Beings 2007-2010¹²³.

689. Portugal has approved the *First National Plan against Trafficking of Human Beings (2007-2010)*¹²⁴ assigning, thereafter, as a strategic priority the implementation of an all-round approach to combat this reality effectively. Following the most recent developments in terms of the international approach, this includes situations of trafficking for both sexual and labour exploitation.

690. The Plan relies on four strategic areas of intervention each with its own implementation measures. To all these measures are assigned the entities responsible for their implementation and process and result indicators. The four strategic areas of intervention are: 1) Recognition and dissemination of information; 2) Prevention, awareness-raising and training; 3) Protection, support and integration; 4) Criminal Investigation and Punishment of trafficking.

691. This Plan's key structuring element is the symbiosis between the repressive approach to the combat of human trafficking and the promotion of human rights through the adoption of strategies to prevent, support, raise awareness, empower and include the victims.

692. This integrated perspective is in line with the set forth in Article 160 of the Penal Code, in which several trafficking situations are included as human trafficking crimes and, besides the criminalisation of the offender and punishment of eventual human trafficking situations, a clear message is sent to society regarding collective responsibility and the prohibition of any type of permissive/omitted behaviour in the identification/knowledge of trafficking situations.

693. It also contemplates an array of national mechanisms to identify specific contours, harmonise procedures and disseminate best practice. The highlights of this Plan are: implementing a register to be used by NGOs and by the criminal police, creating an observatory regarding issues of trafficking and holding an annual extensive forum encompassing all agents involved in this phenomenon. The promotion of an active, aware and conscious society as regards this reality is also an essential aspect.

694. The protection, support and integration of victims of trafficking are emphasised as areas of vital importance in this Plan. An effective combat against trafficking of human beings is not possible if intervention with the victims is neglected. The concession of a period of reflection offering psychological, medical and judicial assistance, with the help of an interpreter, the possibility of attributing a residence permit with access to official programmes leading to social integration are imperative elements for an effective human rights policy.

695. Finally, criminal investigation and repression of trafficking are indispensable factors given the transnational and constantly-changing aspect which requires cooperation with international institutions as well as the allocation of financial and human resources to address this phenomenon.

696. Among the different **measures** that were implemented during this National Plan, it is important to highlight some of the mechanism/structures that exist at the present moment.

697. It was implemented a model of Signalization, Identification and Integration of potential victims of trafficking (VoT) that involves all the police forces as well as NGO. In Signaling, Identification and Integration – one works with the justifications and features of services specifically aimed at VoT, forming an inclusive accommodation governed by Human Rights requirements. The goal is to promote an articulate process of signaling, identification and integration of victims, with a global vision of the different stages and entities that carry out work with the victims, governed by Human Rights requirements.

¹²³ Resolution no 81/2007, of 22 June, of the Council of Ministers.

¹²⁴ http://www.portugal.gov.pt/pt/Documentos/Governo/PCM/I_PNCTSH.pdf

698. In the 1st phase (signalizing) the entities formally adopt the registration guide (Policies forces or NGO), and send the data to the monitoring system). During the first stage VoT have a reflexion period – 30 to 60 days and access to all medical, psychological, legal, translation and protective measures. After that phase we can have the confirmation of the case (Identification phase). In that period, VoT can have an authorization permit for one year, which can be renewal and access to all medical, psychological, legal and protective measures. During the phase of integration VoT can have access to specially courses for integration or, if is his/her will, to return to his/her country of origin. During that period, the presumed victim cannot be subject to any process of expulsion, and medical, psychological, judicial and linguistic support among other services. The possibility of obtaining permission for residence for a period of one year, with the support referred to above, and also the opportunity to access official programmes and training courses to improve professional skills, are other aspects of this law, which should be highlighted. With the Decree-Law no 368/2007, 5 November, it can be concede permission for residence for a period of one year when there are special circumstances of the victim (that can be connected with safety, health, of the victim or his/her family, among others.

699. The monitorizing system (with the standard registration guide) started in 2008. Some data can be quoted: There are 231 signalized cases, from which 46 have already been signalized in the first semester of 2009. Until June 2009, there were 41 cases confirmed from a total of 231 registered.

700. It was also created a temporary shelter specifically for VoT, ruled by an NGO and it is financially support by an inter-ministerial agreement. Since the opening of the shelter, (and until October 2009) it has received 20 signalling process in which result in 10 victims protected under the shelter. They were from Romania, Brazil, Bulgaria, Mozambique and Portugal. All measures regarding protection, health care, legal assistant, translation, psychological support were undertaken.

701. The implementation of this Plan is committed to a National Coordinator supported by a technical commission that integrates representatives of the Council of Ministers, Ministry of Internal Affairs; Ministry of Justice, Ministry of Labour and Social Solidarity and Ministry of Foreign Affairs. The National Coordinator is responsible to prepare an annual report, containing the description and systematisation of the Portuguese situation relative to trafficking in human beings, and to contextualize the problem, indicating the numbers, characterising the entities and persons involved, describing the main trajectories and suggesting the measures that should be implemented. This Plan also establishes the *National Rapporteur on Trafficking in Human Beings*.

ii. Number of reported trafficking cases as well as the sentences imposed on perpetrators

702. In this regard it should be noted that the revision of the Penal Code, in place since 2007, introduced substantial amendments in the crime type of human trafficking, by integrating this crime into the chapter on crimes against personal liberty. Given that the legislative changes were reflected in the data collection, there is no connection between the numbers collected up to the year 2007 and from 2008 onwards, with regard to the cases of trafficking recorded by the police forces. The lack of data until 2007 is due to the fact that the crime type of human trafficking was included among those crimes against freedom and sexual self-determination, which has been previously included in the following category “Other crimes against freedom and sexual self-determinations”, mixed with other types of crime as procurement.

703. In the same way, data related to the convictions as well as the sentences imposed on perpetrators till 2007 and from 2008 onwards, reflects the outcome of the entry into force of the Law no 59/2007, of 4 September. In the former case we have sentences imposed to the persons convicted by the crime of “Trafficking in persons and procurement”, whereas in the later case, we have the crime “Trafficking in persons”. Due to the recent entry into force of the law, there are no numbers available.

iii. Legal measures to support victims

(a) Witness protection

704. Law n.º 93/99 of 14th July on witness protection (amended by Law No. 29/2008, of 04/07) regulates the implementation of measures for witness protection in criminal proceedings where their life, physical or psychological integrity, freedom or property value considerably high are in jeopardy because of the witness contribution to the discovery of the facts. The measures referred shall include the families of witnesses and others close to them, and may include special programs of security, where, inter alia, the testimony or statements delivered are related to crimes of trafficking in persons.

(b) Legal advice and legal aid

705. Law N° 47/2007 of 28 of August, first amendment to the Law no 34/2004 of 29 July, amending the rules on access to law and courts:

706. The system of access to law and courts intends to ensure that no one is hindered or prevented from exercising or protecting their rights, because of their social or cultural conditions, or by lack of financial resources.

707. The scope of legal protection covers legal advice and legal aid. In case of cross border disputes, when the court authorities belong to another State of the European Union, the legal protection also covers the support of pre-litigation and the specific costs arising from the cross-border nature of the dispute.

708. Those entitled to legal protection under this law are the national citizens and citizens of the European Union, as well as foreigners and stateless persons with a valid title of residence in a Member State of the European Union, who have to be in an insufficient economic situation. To foreigners without residence permit in any member state of the European Union the right to legal protection is recognized, to the extent that it is recognized to the Portuguese citizens by the laws of their country.

(c) Right to compensation

709. The Commission for the Protection of Victims of Crimes is an administrative body of the Ministry of Justice responsible for granting the advance of compensation by the State, requested by victims of violent crimes, and for requests for loans submitted by victims of domestic violence (Law no 104/2009 of 14 September). Without prejudice to the application of the compensation established by law, it may still be accorded to the victims, a wide range of measures: social, educational and therapeutic measures, physical and psychological recovering (in compliance with other legal provisions, and as part of protocols concluded between the Commission for the Protection of Victims of Crime and relevant public and private entities).

(d) Immigration law

710. In 2007 Portugal adopted a new law regulating the entry and stay in Portugal, which protects the victims of trafficking by creating a specific residency permit for their particular cases.

711. In most cases, the victims of trafficking are irregular migrants. The victim of trafficking has immediately, once identified as such, a residence permit, as long as she/he cooperates in the finding of the facts. The victim has also the right to free legal support, as well as social security and medical support.

(e) Other measures

712. Portugal has also created a Shelter Centre for the Protection of the Victims of trafficking and their children, which creates the conditions for the victims to decide, in freedom and without constraints, if they want to return to their country of origin or remain in Portugal, as well as if they want to collaborate with the judicial authorities to prosecute the traffickers.

713. A model for locating, identifying and integrating victims of trafficking for sexual exploitation was defined in order to establish an articulated process for assisting trafficking victims from the time they are first located until when they are integrated, and a standardised registration guide to be applied by security forces and services dealing with trafficking in human beings situations was implemented. A Training Support Kit was designed with appropriate contents and modalities of training for all agents involved in the issue of trafficking in women for purposes of sexual exploitation.

Article 11

A. The right to the continuous improvement of living conditions

Dir. Q. 42. Indicate whether the State party has defined a national poverty line and on what basis it is calculated.

714. The poverty threshold follows the definition adopted officially by EUROSTAT, in other words, it refers to individuals living in households where the equalised income is below the threshold of 60% of the natural equalized income.

Dir. Q. 43. Indicate: (a) Whether the State party has adopted a national action plan or strategy to combat poverty that fully integrates economic, social and cultural rights and whether specific mechanisms and procedures are in place to monitor the implementation of the plan or strategy and evaluate the progress achieved in effectively combating poverty;

715. The National Action Plan for Inclusion (PNAI) defines the national strategy to fight poverty and integrates the European Strategy for Social Protection and Social Inclusion 2008-2010.

716. The Plan is based on a Monitoring System supported by: (i) structural indicators of social cohesion and Laken indicators (primary and secondary) which ensure comparability among Member States; (ii) result indicators in relation to each of the four objectives and targets set in the Plan and (iii) monitoring indicators to implement policy measures used to measure progress in their implementation. This monitoring system also follows the financial process of the targets defined in this Plan.

717. An interim and final report is produced within this system.

Q.43 - (b) targeted policies and programmes to combat poverty, including among women and children, and the economic and social exclusion of individuals and families belonging to the disadvantaged and marginalized groups, in particular ethnic minorities, indigenous peoples and those living in rural and deprived urban areas.

718. In the Framework of the global strategy defined for Social protection and Social inclusion 2008-2010 within the NAPI, the government adopted several measures to promote social inclusion and prevent situations of poverty and social exclusion, which Portugal still faces. Among the various measures the following should be highlighted: (i) Social Insertion Income; (ii) Solidarity Complement for the Elderly; (iii) Social Network Programme; (iv) Local Contracts for Social Development; (v) Programmes to Enlarge Social Equipments (PARES and PAIES); (vi) Continued Care Network; (vii) Housing Comfort Plan for Elderly People; and (viii) Elderly People's Integrated Support Programme (PAII).

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

720. In line with *Priority 1*, the measures integrating the strategy defined possess a wide range of interventions from social protection, tax benefits, social work in schools, to solutions and attention to the children and young people considered at risk. Reinforcing social protection is implemented by improving social benefits and increasing the accessibility to social facilities.

721. In the combat against *child poverty*, the measures promoted within the educational system namely at the pre-school level and conditions to complete compulsory education. In addition, emphasizing the new measures reinforcing Social Work in Schools specifically for the payment of school books and meals.

722. With the *Birth Registration Scheme “Iniciativa Nascer Cidadão”* two measures were developed on childcare, which allows a birth to be registered at a health unit and social security, as well as, screen and identify cases relating to factors of vulnerability and risk. There is a growing concentration of measures to support births and parenthood from increased social benefits to training courses for positive parenthood. Produced in this Plan are programmes for institutionalized children, aimed at developing modalities of alternative life contexts either by working with their family of origin or childcare institutions.

723. Specifically for the *elderly*, priority has been given to increasing their income and consolidating the social facilities network. Also special emphasis was given to their housing situation, following a housing requalification policy, included in programs aimed at privileging their autonomy.

724. Reference should be made to the Solidarity Complement for the Elderly (CSI) was created through Decree-Law 323/2005, of 29 December 2005, aiming to reduce poverty among people aged 65 or more¹²⁵, in a more effective and socially equitable manner, by trying to provide the elderly with an annual income of not less than 4200€ This amount is aimed at old-age beneficiaries of survival pensions or equivalent, in any social protection system, national or foreign, legally resident in Portugal. The elderly claimant’s income and domestic situation are examined and a monthly pecuniary amount may be awarded, with a complementary character to his/her incomes and with the aim of easing the situation of existing monetary need, in a quicker way than would be possible through a pension increase strategy.

725. In 2006, the CSI targeted only on those aged 80 or over, was claimed by 24,228 older people, with a total of 18,684 beneficiaries. Of these, 13 653 are women and the remaining 5 031 men. The average monthly amount (12 times per year) per beneficiary was of €79.67¹²⁶. On average, the near 18 thousand beneficiaries with an active claim at the end of the year saw their incomes increased by nearly 30%, thus, if not removing them from monetary poverty, at least strongly diminishing its intensity and severance. Currently, the CSI covers near 50.000 people aged over 70 (with extension to those aged 65 or over from 2008 on), whose incomes were truly below the poverty line, allowing them an average monthly income’s increase of nearly 80€

726. Following the scope of *Priority 2*, efforts have been carried out in order to guarantee the general access of children between 3 and 5 to pre-school education. Basic learning related to the consequent development of individual skills provided by a set of different measures promoting personal and curriculum enrichment courses. Develop measures and interventions for more vulnerable children and young people, namely through Student Support Offices.

727. Several measures were reinforced regarding professional offers and curriculum alternatives so as to bring closer the students who dropped out of school early and those with greater learning disabilities by guaranteeing them the possibility to complete secondary education or even compulsory schooling.

¹²⁵ Through a phased application: in 2006, only for individuals aged 80 or more; in 2007, for those aged 70 or more; from 2008, for all the universe of people financially in need aged 65 or more.

¹²⁶ Source: Institute of Informatics and Statistics of the Social Security.

728. It is the case of the *New Opportunities Initiative* as a fundamental and more integrated strategic investment to respond to the challenge of qualifying young people and adults.

729. >>See item 18 of the report.

730. Investment has also been carried out within the scope of Information and Communication Technologies (ICT) to reduce info-exclusion, either through training and certification projects in ICT, by generalizing the access to low cost laptops distributed to students from 7th-12th level of schooling, e-escolas Programme (Programa e-escolas), from the beginning of 2008, to students of 1st and 2nd level education through the e-escolinhas Programme “Programa e-escolinhas” (Magalhães), as well as the creation of Centres for Digital Inclusion and duplication of Free Internet Access Points in Public spaces.

731. Regarding *Priority 3*, the policy measures, with a preventive and correcting characteristic for people *with disability or impairment* focus on the following key interventions: income; facilities and services; accessibilities; education, training and employment; institutional empowerment; rights. On one hand, these initiatives demonstrate an improvement to access goods and services, by adjusting the school system to the needs of this target population. On the other hand, investment is reinforced in social protection, through the revision and adjustment of family benefits as well as, increasing the places in facilities and social services to support individuals and their families. Investment continues on being carried out to promote training and integration in the labor market of these groups both socially and professionally as well as, to make them financially autonomous. In addition, by reinforcing and defending their rights by applying specific measures within the legal support framework.

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

733. In what concerns, *ethnic minorities*, namely the Roma communities, it should be mentioned that they already have access to a significant number of measures and programs which target people and groups in a situation of poverty and exclusion (namely the RSI, re-housing programs, social protection measures, social work in school among others).

734. Finally, combating poverty and social exclusion, besides being the domain of services and social and health equipments, is also being developed through proximity networks which, identifying problems and specificities characteristic of a certain territory can develop specific intervention strategies. In this context, there are the Local Contracts for Social Development¹²⁷, whose territories are previously selected according to known needs, where the respective Municipalities are invited to develop a project, together with a coordinating NGO, organised from Local Social Networks, through intervention partnerships in a strategic axis – family and community; job and training and accessibilities and information. Initially, 30 Local Contracts for Social Development will be developed, and five projects are currently under a protocol.

B. The Right to adequate food

Dir. Q. 44 . Provide information on the measures taken to ensure the availability of affordable food in quantity and quality sufficient to satisfy the dietary needs of everyone, free from adverse substances and culturally acceptable

735. The founding principles of the Common Agricultural Policy (CAP) of the European Union (EU) recently restated in the Lisbon Treaty, establish the need to ensure a fair standard of living for the agricultural community, in particular by increasing the individual income of those working in

¹²⁷ Decree no 396/2007, of 2nd April.

agriculture, as well as the need to guarantee reasonable prices in consumer supply and to ensure security of supply. In addition, it should be possible to practice agriculture throughout the EU.

736. The subsidiary application of the CAP in Portugal aims to ensure the competitiveness of agricultural holdings and their sustainability, by taking into account the existing handicaps in many parts of the territory. The pursuit of this objective allows, when necessary, farmers in all parts of the territory to have access to policy instruments to correct market failures that may contribute to make agricultural production less attractive in those regions.

737. Therefore, while Portugal has a negative trade balance in agricultural products, production is promoted across the country, thus enabling consumer access to agricultural goods in order to meet their needs, namely in terms of food. Moreover, the operating rules of the EU internal market tend to ensure Community preference, and there are mechanisms in place to re-allocate agricultural and food products between Member States, which can be activated when necessary.

Dir. Q. 45. Indicate the measures taken to disseminate knowledge of the principles of nutrition, including of healthy diets.

738. In 2004 the National Programme against Obesity was launched and aims to lower the prevalence of pre-obesity and reduce the growth of obesity in Portugal. This Programme intends to contribute to weight-loss in the obese and in those with particular risk of developing obesity, namely people with type 2 diabetes and cardiovascular disease. It also discourages habits that are likely to result in excess weight gain and aims to contribute to the development of a culture that promotes healthy weight, involving intersectoral cooperation.

739. The health sector, conscious of the difficulty of addressing this problem alone, organised the National Platform against Obesity¹²⁸, a strategic measure adopted politically with the aim of creating intersectoral synergies both at the level of the government and civil society.

740. The Division for the Platform against Obesity, integrated into the General Directorate for Health of the Health Ministry was created in Portugal, with specific competences, namely those of:

- release the European Charter against Obesity and edit the Portuguese Charter against Obesity,
- review the Food and Nutrition Recommendations for the Portuguese population (Orienting Norms),
- control through a proposal for a statutory law, the nutrition profile of the food which is produced by food industry (quantity of calories, salt, saturated fats),
- regulate the availability of food having a high level of calories, salt, sugar and fats (saturated and trans) in the canteens/bars of the schools, public services and enterprises,
- legislate on the marketing and publicity of food addressed to children and adolescents.

741. In parallel, important inter sectoral measures are being implemented, such as:

- Good Practices Codes for the Food Sector,
- define and promote the healthy menu in the restaurants (as happens with the tourists' menu);
- create *bureaux* inside the Municipalities with food competences and which supervise pre-school and school food;
- implement inside the school institutions the "School fruit regime";
- establish a cooperation protocol with the Sports Institute for the elaboration of National Recommendations for an healthy physical activity in the life time.

¹²⁸ http://www.plataformacontraaobesidade.dgs.pt/PresentationLayer/homepage_institucional.aspx?menuid=113

Dir. Q. 46. Indicate the measures taken to promote equality of access by the disadvantaged and marginalized individuals and groups, including landless peasants and persons belonging to minorities to food, land, credit, natural resources and technology for food production

742. Following reply 44, the primary function of agriculture is to ensure safe, quality food products. However, agriculture also provides other important functions both in the management of natural resources (e.g. water, soil, biodiversity), and in maintaining economic and social cohesion and sustainability in rural areas.

743. Therefore, the presence of production activity contributes to the sustainability of rural areas - sometimes marginalized in terms of infrastructures or of the access of their populations to certain social amenities - either directly by the added value it generates, or indirectly through environmental, social and landscape externalities. These in turn contribute to the emergence of additional activities based on those values and goods produced by rural areas. The balanced development of productive economic activity in the agri-food sector allows the existence of structures and develops skills, increases the attractiveness of the territories and encourages the settlement of people, thus increasing competitiveness and sustainability in these regions.

744. In Portugal, since 1987 that the right of the needy population to adequate food is guaranteed by the Food Aid Community Program for the Needy (PCAAC)¹²⁹. Promoted annually by the Commission and implemented by the Member States which using the food products available aims at distributing agricultural products to the more needy population in the European Union.

745. In order to distribute the existing resources between Member States which demonstrated the wish to implement this initiative, the Commission takes into account the number of needy people in the Member States in question, as well as the experience and uses registered in the past years.

746. The following entities and bodies of two Ministries intervene annually - Ministry of Labor and Social Solidarity and the Ministry of Agriculture. It is the responsibility of the Social Security Institute (ISS) to coordinate the implementation of the Annual Plan for the Distribution of Food Products available on the whole national territory.

747. All families/persons and institutions/users living on the national territory may be considered beneficiaries of PCAAC, and whose economic and social dependence is recognized under the Eligibility Criteria approved by Joint order 06/02/1996, of the former Secretary of State for Social Inclusion.

748. According to the eligibility criteria of those benefiting from the Programme.

47. Indicate whether the State party has adopted or envisages the adoption, within a specified time frame, of the ‘Voluntary Guidelines to support the progressive realization of the right to adequate food in the context of national food security. If not, explain the reasons why.

749. Similarly to most European Union Member States, Portugal social policies existed to address all kinds of welfare and support needs and there was no specific focus on food poverty. Therefore and taking into account this specific issue “the right to food” it only be mentioned:

- The PCAAC, mentioned in 46 above; and the measures focused in “Fighting Poverty” such as extending the coverage of the CSI, strengthening school social action and reinforcing the insertion of beneficiaries of the Social Integration Income (RSI) as well as expanding Social Protection.

C. The right to water

¹²⁹ <http://www1.seg-social.pt/left.asp?03.06.15>

Dir. Q. 48. Indicate: (a) The measures taken to ensure adequate and affordable access to water that is sufficient and safe for personal and domestic uses for everyone

750. The Portuguese water law (Law n° 58/2005 of 29th December) considers the social value of water: universal access to water for human consumption, with a socially acceptable price, without constituting a factor of discrimination or exclusion.

751. In Portugal the physical access to water services is also guaranteed by law (Decree-law no 194/2009 20th August). Operators must provide water services through public networks when their infrastructure is at a distance equal or less than 20 meters.

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

753. To solve potential affordability problems, the Regulatory Entity for Water and Waste Services (ERSAR) has published a recommendation on water services tariffs to guarantee that sanitation and water facilities and services must be accessible at a price that is affordable for all people.

754. The reference thresholds established to ensure affordability access to water and sanitation services in Portugal (Decree-Law no 5/2009, of the Ministry for the Environment, Spatial Planning and Regional Development) are set by an expenditure, which cannot exceed a 0.75% of the monthly average income, or in some circumstances, a 1.25%, considering a 10/m3 monthly consumption.

Q. 48 - (b) The percentage of households without access to sufficient and safe water in the dwelling or within its immediate vicinity, disaggregated by region and urban/rural population and the measures taken to improve the situation

755. Regarding water supply, the national situation has evolved greatly in the last few decades as a result of significant investments. The Strategic Plan for Water Supply and Wastewater Services – PEAASAR II (2007-2013)¹³⁰ has as its main objective to universally serve 95% of the country's population with water supply systems in terms of continuity and quality. In 2007 the population served by public water supply was about 92%. By hydrographic regions the coverage service is: Azores and Guadiana (99%), Madeira (97%), Tejo (96%), Sado-Mira (95%), Algarve and Vouga, Mondego, Lis and Ribeiros do Oeste (93%), Douro, Minho and Lima (88%), Cávado, Ave and Leça (86%). This data points out that the areas with lower service coverage are the northern areas, which in turn have the highest hydrographic availability. In terms of expenditure, only in a few number of municipalities water services' expenditure exceeds the affordability reference thresholds. In 2007, a 5% of municipalities exceed this reference and they were focused on North (3.25%) and Centre (1.6%) regions. Nevertheless no affordability problems can be observed for a monthly consumption of 10m3 for a household with average income. However, to safeguard the affordability of the low-income households to the water services, social tariffs are recommended by ERSAR.

756. Regarding drinking water quality, around 97% of the water provided is controlled and with good quality.

Graph 31. Annex - Water quality evolution in recent years

Q. 48 - (c) The measures taken to ensure that water services, whether privately or publicly provided, are affordable for everyone

¹³⁰ http://www.inag.pt/index.php?option=com_content&view=article&id=266

757. Portuguese operators have defined increasing block tariff structures (the volumetric charge changes according to several blocks depending on volumes consumed) to benefit low income households and to promote economic efficiency, but on the other hand, brings upon equity and affordability issues. Tariffs must take into account households' economic capacity. Thus, in order to achieve affordable prices to low income and large households a social/family tariff is necessary.

758. ERSAR has published a recommendation on the design of water and waste tariffs by the operators, which among other dispositions aims to promote the creation of social and family tariffs in order to ensure that access to sanitation and water services must be accessible at a price that is affordable for all people.

759. Decree 5/2009, of the Ministry for the Environment, Spatial Planning and Regional Development intends to set a criteria for the European funds distribution to resolve affordability problems in poorest regions.

Q. 48 – (d) The system in place to monitor the quality of water

760. The main instruments available to the public administration in order to control water pollution are as follows:

- Nationwide monitoring network for water quality under the responsibility of both the Water Institute (INAG-IP) and the 5 River Basin District Administrations (ARH) and 2 Autonomous Regions;
- Licensing water uses, including water extraction and wastewater final destination;
- Supervising water uses carried out by ARH's;
- Inspections carried out by Inspection body of the Ministry for Environment and Spatial Planning – IGAOT.

761. Regarding drinking water quality, ERSAR is since 2003 the Portuguese competent authority. In this context, it has several attributions on monitoring compliance of all drinking water sources with legally established parameters.

762. The drinking water quality regulatory procedures follow a cycle. Operators have to report their annual drinking water quality control programs to ERSAR, which, in turn, is responsible for their approval. They also have to submit changes and alterations for revision and approval by ERSAR.

763. Operators communicate annually to ERSAR the results obtained from the implementation of the approved programs in order to produce a report on Portuguese water quality.

764. During this process operators must communicate non-compliances in parameter values, the causes, the corrective measures and the results of verification analyses. ERSAR monitors and accompanies the whole process.

Dir. Q. 49: Provide information on education concerning the hygienic use of water, protection of water sources and methods to minimize water wastage.

765. In this context, two main management instruments deserve to be highlighted: National Plan for the Efficient Use of Water (PNUEA) and PEASAAR 2007-2013. The combination of these two instruments provides Portugal with the necessary guidelines for the use of best environmental practices, whenever integrated management of water, its efficient use, control and pollution are at stake. For the enforcement of PNUEA some technical guidelines were developed, one of them related to the "Efficient use of water in the urban sector". As these guidelines provide a number of practical cases on how to better use water in our daily routines, they have been easily accepted and apprehended by the target group (management entities for water supply, sanitation services and citizens). Another

action in developed in the framework of PNUEA was the recently approved application for the National Strategic Reference Framework/Cohesion Fund. Until 2011 actions will be implemented in the domain of the efficient use of water, which in general terms, include:

- The Efficient School Project,
- The System of Droughts Prediction and Management,
- A training Project to dealing with issues related to efficient irrigation practices,
- Public Awareness and Information directed to consumers on how to use water efficiently, promoted by public and private entities.

766. PNUEA sets the following targets to be achieved by 2025: 80% of efficiency in water consumption in the urban sector; 65% of efficiency in water consumption in agriculture; 85% of efficiency in water consumption in industry sector.

767. On the other hand, ERSAR has also published a series of technical guides on “Water losses control on water supply services”, “Drinking water security plans on water supply services”, “Water efficient use” and “Protection of superficial and subterranean water sources on water supply services that aim to promote better practices within the water sector in Portugal.

D. The right to adequate housing

Dir. Q. 50. Indicate whether a national survey on homelessness and inadequate housing has been undertaken, as well as its findings, in particular the number of individuals and families who are homeless or inadequately housed.

768. The first National Strategy for Integration of Homeless People (2009-2115) has been launched the 14th March 2009, by the Ministry of Labour and Social Solidarity.

769. The strategy holds on a rights-based approach, including the right to housing and equal opportunities as well as other basic rights.

770. The goals are framed upon two basis axes: 1) Information; combat against discrimination, 2) education; Qualification of intervention

771. Special importance is given to the implementation of local diagnosis including risk indicators and local homelessness plans within the social network program¹³¹ and homelessness strategy’s framework and to an integrated and client centred approach, with individual insertion contracts

772. The “building” of this strategy was a participative process, including a large group of stakeholders, public and private organizations who signed up a public commitment with its goals. In fact, the designing of the Strategy was based upon a high level of motivation and development of different activities that reinforced a cooperative dynamics and a consequent integration of shared goals from the entities of the group.

Implementation of the Strategy (first year)

773. The implementation of the strategy will be developed in three phases: 1st phase – The dissemination of the definition and the strategy; 2nd phase – The creation of local networks, diagnosis and local plans – implementation of an information system, training of professionals; 3rd phase – evaluation.

Organizational structure

¹³¹ SNP is a program to combat poverty and social exclusion and foster local social development

774. The initial Interinstitutional group was organized in a different way to develop the implementation of the strategy:

- *Central level* - Organisations involved in the strategy are grouped into two fundamental structures, an Extended Commission and an Executive Centre (GIMAE), and eight working groups were created, that are part of researchers, experts and entities invited, related to the key strategic objectives.
- *Local level*- Homelessness Local Planning and Intervention Centres (NPISA)

775. During 2009/2010 new entities joined the group of the Strategy (GIMAE) such as the National Defence Ministry (with a view to further articulation in relation to support for former combatants in situations of homelessness), the National Statistics Institute (relating to joint the census and the dissemination of statistics) and the Ministry of Education (over the integration of the fight against stigma and stereotype the homeless in schools).

776. The activities planned for the first year (April 2009/2010) were fit under the careful preparation of the practical implementation of the Strategy in 2010 and had as main objectives:

- The dissemination of the homelessness definition approved and guaranteed use of the same language for all the entities working in the field;
- The characterization of situations of homelessness in all municipalities;
- The involvement of social networking sites, primarily in the seven priority counties - Braga, Porto, Aveiro, Coimbra, Lisbon, Setubal and Faro.

Dissemination of the homelessness definition

777. The spread of the definition approved and the Strategy document was carried out through meetings and workshops, conducted at two levels - internal to each of the entities represented in the GIMAE and external.

778. The internal diffusion of the definition and the strategy has resulted in various dissemination activities such as specific internal communication plans and meetings, technical guidelines, normative rules, etc.

779. The level of external communication was processed in different contexts - meetings, seminars devoted to the theme homeless and working meetings with the social networks of the cities of Lisbon, Porto, Coimbra, Aveiro, Braga, Setubal and Faro (priority counties).

The involvement of social networking sites

780. The involvement of social networks in implementing the national strategy is a prerequisite for its successful implementation in the country. Local social networks were invited to constitute homelessness thematic groups or NPISA within the social network program framework.

781. According to the number of homelessness situations seven priority counties were identified- Braga, Porto, Aveiro, Coimbra, Lisbon, Setubal and Faro. However other local networks have already constituted or are in stage of constitution of a NPISA - Cascais, Oeiras, Almada, Seixal, Figueira da Foz.

782. The 7 counties, defined as priority, are in different stages of the implementation of the national strategy, some of them having already prepared the diagnosis on homelessness (all, except Setubal) and having designed their own development plans (Lisbon, Braga and Coimbra) in order to pursue the objectives of NIPSA, including:

1. To create conditions in order to ensure that no one has to stay overnight on the street for more than 24 hours due to lack of alternative;
2. That all situations in shelters must be accompanied by a professional and assure quickly improvement in their living conditions;
3. Signalization, in time, of all situations that may run the risk of becoming homeless, in a preventive logic.

Specific projects

783. Since September 2009 the Institute for Social Security has funded a project "housing first" developed in Lisbon, which provides housing and personalized support to 50 homeless people suffering from mental illness, and those houses at the moment about 40 people. This is a pilot project that will be enlarged to other cities after his evaluation in the end of 2010.

784. Within the scope of the Strategy a protocol between the National Coordination Centre for Mental Health and Psychiatric Hospital in Lisbon was also signed, with a view to ensure adequate access, treatment and monitoring of the situations of homeless people with mental illness.

785. >>See item article 2 of the report

Dir. Q. 51. Indicate:(a) the measures taken to ensure access to adequate and affordable housing with legal security of tenure for everyone, irrespective of income or access to economic resources

786. Within the housing sector, special efforts have been made in reducing the cases of housing shortage in Portugal, among which are the Relocation Programmes (PROHABITA¹³² and Special Re-Housing Programme - PER¹³³) and Program of Solidarity and Support for Recovery Housing (SOLARH)¹³⁴.

787. Reference should be also made to the relevant role of housing stock owned by Institute for Housing and Urban Rehabilitation (IHRU)¹³⁵, in supporting to families without enough income.

788. These Programmes are indexed to household income and are aimed at an audience with limited economic returns.

789. The National Action Plan for Inclusion (PNAI) following the European Strategy for Social Protection and Social Inclusion for 2008-2010 defines a set of objectives for the area of housing, to be attained by several measures, among them:

790.- **PROHABITA:** Integrates the following programmes and housing initiatives for families with housing difficulties: 1) Promote cost-controlled housing within Cooperative Promotion. 2) Reinforce retrofitting. 3) Construction or transformation of buildings into social facilities in social housing neighborhoods. 4) Direct financial support to family households so as to ensure them re-housing in case of, natural disasters or emergency situations.

791.-**Housing Comfort Programme for the Elderly (PCHI):** Improves the basic residential conditions and accessibility of the elderly through this programme and in partnership with the Municipalities.

¹³² The Decree-Law n. 135/2004 of July 3rd creates the PROHABITA program [Financial Program for Housing Access]. Later on the new Decree-Law n. 54 n/2007 of March 12th deepened its coverage of precarious housing situations.

¹³³ The Special Re-Housing Programme was launched in 1993 through Decree-law 163/93, and was amended by Decree-Law no 271/2003, 28th October, with the objective of eradicating the slums existing in the metropolitan areas of the two biggest Portuguese cities, Lisbon and Porto.

¹³⁴ SOLARH - To help older persons there is the Program SOLARH: is intended to finance in the form of an interest-free loan, the carrying out of upkeep works and improvements to permanent own housing and uninhabited housing owned by individual or public entities, including common parts of buildings.

¹³⁵ <http://www.portaldahabitacao.pt/ihru/>

792.-**Door 65:** i) young people: Programme promoting rent controlled housing for young people (from 18 to 30 years); ii) Housing benefit and mobility: Programme to make available public and private property for direct or mediated rent through housing stock; iii) Management and proximity: Instrument to support the management of the public rental stock by establishing contracts with local authorities previously certified for management of the housing stock in proximity; iv) Supported housing (Cohousing): Promote a support instrument, for entities which pursue social solidarity purposes, of renting collective housing for population groups with permanent or temporary specific needs.

793.-Other measures:

- *Reduction of the Maximum Municipal Property Tax "IMI":* reduction of the maximum municipal tax from 0.8% to 0.7% for property not assessed and from 0.5% to 0.4% for property assessed within CIMI.
- *Extension of the exemption period to grant for residential urban buildings or apartments:* extension of the exemption period to grant for residential urban buildings or apartments: from 6 to 8 years (until 157.500 Euros); from 3 to 4 years (between 157.500 and 236.250 Euros).
- *Increase of expenses with housing due to taxable income* (amendment of Art. 85 of CIRS): increase of expenses with housing due to taxable income (rates and amortization).

Q. 51 - (b) the impact of social housing measures, such as the provision of low-cost social housing units for disadvantaged and marginalized individuals and families, in particular in rural and deprived urban areas, whether there are waiting lists for obtaining such housing and the average length of waiting time

794. IHRU has 12 000 units for rent to families with low incomes

There are waiting lists only on the IHRU`s housing public stock responsibility, but there is no information on length waiting average. The housing public stock rehabilitation owned by IHRU involved an investment of 6 Million €

795. PER and PROHABITA Programmes: the number of interventions in housing has increased significantly from 1 962 in 2005 to 4 000 in 2008.

796. SOLARH: between 2007 and 2008, IHRU granted loans amounting to 3 Million € having an impact on 300 units.

797. Doorway 65 programme: between 2007 and 2008, 9 499 applications were approved, which benefited 13 670 candidates.

Q. 51 - (c) measures taken to render housing accessible and habitable for persons with special housing needs, such as families with children, older persons and persons with disabilities.

798. >> See a) and b) of the question 51

Dir. Q. 53. Whether there are any disadvantaged and marginalized individuals and groups, such as ethnic minorities, who are particularly affected by forced evictions and the measures taken to ensure that no form of discrimination is involved whenever evictions take place.

799. There is no discrimination in the context of programs to support families in obtaining housing.

Dir. Q. 54. Indicate the number of persons and families evicted within the last five years and the legal provisions defining the circumstances in which evictions may take place and the rights of tenants to security of tenure and protection from eviction.

800. There is no information on evictions that were carried out in the last five years. By the time of IGAPHE, it took place annually around 20 to 30 evictions and 10 to 15 refunds of possession and efforts on protective measures. In recent years, given the process of transfer of existing buildings to the municipalities the injunction was the only way implemented.

801. IHRU only issued credentials. It was been prepared two credentials for evictions in 2008 and one in 2009. Credentials for the recovery of possession and injunction, six were prepared in 2008 and one in 2009.

802. Reference should be made: 1) The Housing Strategic Plan for 2010/2015 is under discussion; 2) In February 2008 was created the Observatory of Housing and Urban Regeneration (OHRU) which has the mission of building and managing an information system organized with the aim of raising awareness of housing and urban regeneration and to monitor its evolution.

Article 12 – The Right to health

Dir. Q. 55. Indicate whether the State party has adopted a national health policy and whether a national health system with universal access to primary health care is in place.

803. Since 1975 that Portugal has a National Health Policy (SNS). The first set of rules on this matter is enunciated in article 64 of the CPR, which states that everyone is entitled to the protection of her/his health and has the duty to protect and to promote other's health besides' its own. In a article 64, 2§ of the C.P.R. states that the right to health is realized: *a)* through a national health service universal and general and tending to be free of charges taking in account the needs of the citizens; *b)* through the creation of economic, social, environmental and cultural conditions which warrant namely the protection of childhood, youth and old age and through the systematic improvement of the living and working conditions, as well as through the promotion of popular and school sports, and as through the sanitary education of the citizens and of healthy ways of life .

804. Moreover the Basic Law on Health – Law no. 48/90 of 24 August 1990, as amended by Law no. 27/2002 of 8 November 2002 – states that health protection is a right to which both individuals and the community are entitled, which individuals, society as a whole and the State are all responsible for implementing, and which entails freedom to seek and provide care, based on the principle that healthcare can be provided by the State or by other public or private, for-profit or not-for-profit, bodies, but always subject to State inspection.

805. The Ministry of Health has implemented and developed policies and mechanisms that facilitate the population's informed and participative access to health and the provision of preventive, curative and rehabilitative care that is appropriate to each concrete situation, in the context in which each person finds him/herself. These policies and mechanisms are reflected in the strategies set out in the National Health Plan 2004-2010 (PNS).

806. The PNS attaches priority to mental health, cardiovascular illnesses, cancer (particularly the diseases that can be detected preventatively), accidents on the road and at work, and respiratory diseases. The risk factors that are the easiest to eliminate are those linked to the greatest prevalence of illnesses: tobacco, high blood pressure, excessive alcohol consumption, obesity, and cholesterol.

807. The support for these programmes is to be based on the public health institutions on which particular emphasis is to be placed

Dir. Q. 56. Provide information on the measures taken to ensure:

(a) That preventive, curative, and rehabilitative health facilities, goods and services are within safe reach and physically accessible for everyone, including older persons and persons with disabilities;

(b) That the costs of health-care services and health insurance, whether privately or publicly provided, are affordable for everyone, including for socially disadvantaged groups;

(c) That drugs and medical equipment are scientifically approved and have not expired or become ineffective; and

(d) Adequate training of health personnel, including on health and human rights.

i. Portuguese National Health Service (SNS)

808. The Portuguese health system is composed of the National Health Service (SNS), public and private institutions, and all the professionals who enter into agreements, contracts and conventions with the SNS for the provision of healthcare.

809. In order to ensure the universality of the use of healthcare units, the Basic Law on Health specifies that the following may make use of the SNS:

- Portuguese citizens.
- Citizens of the other European Union Member States, in accordance with the applicable Community rules.
- Foreign citizens, who reside in Portugal, subject to reciprocity.
- Stateless persons who reside in Portugal.
- Underage foreign citizens who are present in Portugal illegally but are registered.

810. The health system articulates the activities of the various different actors in the health sector in terms of the financing, provision, production, distribution, and sale of health-related items and services. Care is provided by a network of health services that includes:

811. **1. *The Primary Healthcare Network***, which is the range of organised interventions related to individual and family health and illness that are undertaken on an outpatient basis.

812. The primary healthcare network is made up of both the SNS Health Centres and the private sector (both for-profit and not-for-profit) bodies which provide primary healthcare to SNS users under the terms of contracts that are entered into under the current legislation, as well as independent professionals and groups of professionals organised in the form of cooperatives or other bodies, with whom the SNS has signed contracts, conventions, or cooperation agreements.

813. As the central pillar of the whole health system, this network offers a response to unfulfilled needs in terms of the provision of preventive care, the supervision of groups within the population who are subject to a higher level of risk or vulnerability, interventions in the community, and the provision of personalised care as close as possible to people's places of residence and work, to which end the Health Centres have been the object of an organisational and functional reconfiguration.

814. **2. *The Hospital Care Network***, which attends to individuals who are suffering from acute illnesses and need an urgent or inpatient response, or in relation to whom there has been a request for a diagnosis or treatment that requires complex facilities or highly specialised and technically differentiated organisational structures.

815. **3. *The National Network of Integrated Continuous Care (RNCCI)***, which is composed of a range of sequential healthcare and/or social support interventions that are carried out following a joint assessment, and focus on overall recovery defined as an active, continuous process of both therapy and social support designed to promote autonomy by improving the functionality of dependent persons by means of their rehabilitation, re-adaptation, and family and social reinsertion.

816. Providing healthcare also implies directly or indirectly supplying all the other services that users are entitled to receive in relation to the state of their health or their stay in a healthcare establishment – particularly in terms of the provision of support services.

817. In order to fulfil these obligations healthcare units must ensure that resources are made available, and must set out processes and policies that are appropriate to achieving the objectives they have been set in terms of the best management practices and the principles of fairness and accessibility to healthcare. Accordingly, they receive the agreed financial resources and the cooperation they need to fulfil their mission and their objectives.

818. The Portuguese health system is not limited to the SNS. The latter's health centres, public hospitals and integrated continuous care units are not the only bodies that provide care, inasmuch as there has always been a large private sector that sells services to both individuals and the SNS itself.

819. The fact is that under the terms of the Statute governing the National Health Service the Ministry of Health can resort to entering into agreements in the form of conventions or specific accords with the social sector, private for-profit or not-for-profit bodies, and independent professionals, with a view to the provision of healthcare (for the purpose of promoting health, preventing, diagnosing and treating illness, and rehabilitation) to SNS users. In such cases these bodies and persons become an integral part of the national healthcare network.

820. On the question of users' freedom of choice, the objective of contracting with private bodies for the provision of healthcare is to help ensure the necessary degree of readiness, continuity and quality in the provision of care, as well as fair access to healthcare for users.

821. The main objective of contractualising healthcare with private bodies is to guarantee that people have effective access to healthcare by broadening the possibilities for choice, inasmuch as doing so gives or ensures access to a more diversified range of healthcare service providers and simultaneously ensures a more rational and efficient coverage of the whole country in terms of healthcare units, be they public or private.

822. Since 2004, the Ministry of Health has implemented and developed policies and mechanisms that facilitate the population's informed and participative access to health and the provision of preventive, curative and rehabilitative care that is appropriate to each concrete situation, in the context in which each person finds him/herself. These policies and mechanisms are reflected in the strategies set out in the National Health Plan 2004-2010 (PNS).

823. The periodic indicator-based assessments of the targets that have been set in this field particularly highlight the favourable variation in life expectancy, the results in the child mortality field and their component elements, and the significant reduction in the number of deaths in road accidents. We should also point to the application of the new legislation on tobacco consumption – an area in which significant changes are likely to occur in the future.

824. One of the commitments that Portugal made for 2006-2008 was to promote improved access to quality healthcare and social facilities, as well as to resources that favour a healthy active life.

825. The combination of the growing tendencies for people to seek healthcare and long-term care, the evolution in technology, the need to ensure access to technical progresses in the health field, and the need for budgetary stability, have posed innumerable challenges for Portugal.

826. These challenges have led us to design both policies for developing more rigorous healthcare coordination methods based on objectives and results, and innovative forms of funding with a greater control of the expenditure on health services and medicines.

827. Portugal has thus developed or implemented programmes for preventing disease and promoting health whose objectives are simultaneously to improve the state of people's health and reduce the rise in expenditure in the health sector.

828. The governance of the national health strategy has progressively been improved with the involvement and participation of the main parties who intervene in the care provision process.

829. As the national strategic planning instrument in the health field, the "National Health Plan 2004-2010" has continued to be operationalised in 2006-2008. Quantified goals have been set in relation to the main political priorities which, over the course of the lifecycle, ensure that the state of the Portuguese population's health is monitored by assessing the impact that the proposed policies are having on the health of both men and women.

830. The current health policy is thus seeking to strengthen the planning and management of resources from a "better value" perspective. In other words, more important than offering the whole population every form of healthcare at a low price, is managing to offer the best care in the right place and at the right time, with the best available technique and technology, at a price that is fair for the whole population, including the groups that are more vulnerable or are exposed to greater risks.

831. In this respect centres of reference with a high degree of differentiation or excellence (centralised) and specialised treatment centres (decentralised) are being created in specific areas of intervention. The idea is not only to seek technical efficiency on the part of the programmes for preventing and controlling chronic diseases, but also their financial efficiency.

832. In order to overcome the lack of coverage that exists in certain areas of the National Health Service (SNS) due to a shortage of GP's or of some specialised services – dental medicine, for example – various initiatives have been undertaken with a view to improving people's access to healthcare. Examples of this include the *e-agenda project*, the expansion of the system of conventions with the private sector, the dissemination of telemedicine, and the contribution towards the expenses that people incur in the oral health field.

833. With a view to reducing the difficulties involved in registering patients for differentiated care, and to improving the articulation between the different levels of care, Portugal has begun to experimentally implement a national strategy for the integrated management of a number of chronic diseases which are very prevalent and/or possess a substantial potential to incapacitate their victims, and which simultaneously consume a lot of financial resources.

834. It is hoped that this methodology will not only make it possible to do away with the duplication of diagnostic and therapeutic processes, but also for healthcare providers to share both clinical and non-clinical information, thereby making them responsible for the results of their actions.

835. By increasing the availability of generic medicines at pharmacies, increasing the number of drugs that can be bought without a doctor's prescription, and bringing in electronic prescriptions at some hospitals and health centres, the initiatives that are being pursued under the policy on medicines are designed to not only reduce the spending on contributions towards the cost of medicines, but also to further the fight against fraud and waste.

836. In Portugal the combination of the centralised acquisition of medical services, drugs and other items via the Public Health Purchasing Catalogue (CAPS), and a greater management autonomy on the part of public health providers (making hospitals entrepreneurially minded) has not only made it possible to make purchasing easier, but has also ensured effective competition between suppliers.

837. This debureaucratisation of purchasing procedures is also and above all ensuring a greater transparency in the purchases made by institutions and services that form part of the SNS.

838. During the period covered by this Report, the main goal was to requalify the SNS, by placing it at the service of the whole Portuguese population, whatever people's social and economic

situation. This process is based on principles: give priority to primary healthcare; create the network of integrated continuous care; reorganise the hospital network, thereby making it easier for people to access, and improving the quality of services; ensure budgetary sustainability by fighting both waste and the various interest groups that are in place.

839. This intervention has made it possible to obtain a bigger and better SNS, with the capacity to provide more services, more primary healthcare and hospital specialist appointments, and more day hospital treatments for oncological diseases or other pathologies.

840. It is necessary to deepen the SNS system, in its role as an instrument that is fundamental if we are to provide all of the Portuguese population with humanised and technically appropriate healthcare, whatever the patient's economic and social situation.

ii. Policies and measures pursued in relation to the accessibility of healthcare

841. In Portugal there is a concern not to address the issue of the accessibility of healthcare solely from the perspective of geographic proximity to the available resources, inasmuch as while this is an important variable, it is not the one that most heavily conditions access to healthcare. The issue of accessibility is also seen from the point of view of financial resources and the provision of information to the population, which together enable them to gain access to healthcare.

842. Direct spending on health primarily involves the purchase of medicines, nor is spending on private medicine negligible. However, in this respect it is a family's available income that dictates whether it opts for a doctor from the private sector or one from the public sector (including private providers with conventions with the SNS). In other words, it is effectively possible to choose in the majority of specialist medical fields and virtually the whole of the country.

843. Under this heading it is important to note the effort that is being made to promote access to hospital care, which has resulted in improvements in terms of: access to surgery; access to outpatient appointments, particularly first appointments; the treatment of oncological diseases; and outpatient surgery and the emergency network. This is reflected in the following measures:

- The 'Timely Appointment' Programme (PCTH), which seeks to ensure that people get an initial hospital appointment within a period of time that is established in advance. Such appointments are first scheduled via the primary healthcare network, and then by the doctor who is treating the patient, in accordance with the terms of the legislation which the Assembly of the Republic passed in relation to the Charter of Rights on Citizens' Access to the SNS.
- The Ophthalmological Intervention Programme (PIO, for cataracts), which is designed to reduce not only the number of users waiting for an intervention, but also the time they have to wait. The idea is that by 30 June 2009 no patient will have to wait more than 5 months for a first appointment, or more than 4 months for ophthalmological surgery.
- The implementation of the 'e-agenda', which involves the various different health services (hospitals and health centres, and especially the Family Health Units – USFs), and uses multichannel technological platforms (Internet, telephone, SMS, etc.) to dematerialise the scheduling of both doctor's appointments and additional diagnostic and therapeutic resources (MCDTs).
- The revision of the rules governing conventions with the private sector in such a way as to improve the access by SNS users to preventive, curative and rehabilitative medical care. The aim of this measure is to bring the health services closer to users and make the right to health, as enshrined in the Constitution of the Portuguese Republic, an effective one.
- Improvements in the Integrated System for Managing the List of Persons Registered for Surgery (SIGLIC) the objective of which is to reduce surgical waiting lists in various different areas of intervention

844. As part of the promotion of improved access, an effort has also been made to draw up rules to provide a framework for the different units that belong to the groups of health centres. As is already the case with the USFs, the other organisational structures – personalised healthcare units, care in the community units, shared assistance resource units, public health units, and management support units – will also be created and developed on the basis of guideline rules that have first been discussed with the professionals concerned.

845. This initiative was designed to lead to the replacement of the heavy, bureaucratic structure of the health sub-regions by a modern, functional organisational structure whose priority is to increase and improve people's access to primary healthcare, and to promote the quality of those health services, by incorporating measures such as: (a) the growing implementation of extended health centre opening hours, in an attempt to ensure that they match the population's working hours; (b) the incorporation in the range of available services of postpartum care and family planning appointments; (c) the strengthening of the National Vaccination Plan, with the introduction of vaccines against cervical cancer and meningitis.

846. The Groups of Health Centres (ACES) will be taking the innovative step of promoting community involvement in the management of primary healthcare – a move that may help ensure SNS responses that are closer and more appropriate to people's needs.

847. Another concern involves providing people with information, and has resulted in the creation of the Health Website. This offers a variety of different information about the health system and seeks to clarify users' doubts about their rights, the healthcare available to them, and the mechanisms for gaining access to it. It includes up-to-date information from all the public healthcare providers, as well as useful and training-related information for both people in general and health professionals.

848. It was a priority to continuously improve the levels of the services and their quality by continuing to implement its reform measures. The most significant of these include:

- The formation of a modern emergency network that is equipped with the technical and human resources needed to fulfil quality and response requirements. This network will be closer to the population in terms of technically validated criteria based on humanisation and rationality. It is necessary to go on telling the whole population that even if an acute illness is temporarily incapacitating, in medical terms it does not necessarily signify an emergency. An acute illness is a sudden problem that requires advice, which can be given by a doctor, a nurse, or a service such as the Health 24 Line. On the contrary, an emergency requires the concerted intervention of a team and a set of resources, without which it is not possible to reverse the – possibly irreversible – course of a given disease.
- Special attention continues to be paid to strengthening the country's rescue and pre-hospital emergency resources.
- The implementation of the Health Reception Centre (CAS), which handled 1,077 cases a day in 2007.
- Further implementation of mobile healthcare units targeted at immigrant and ethnic minority communities with the goal of bringing the provision of care closer to the social groups who find themselves in more fragile social situations.
- The creation of the Oral Health Cheques project, which enables some segments of the population – particularly children, pregnant women, and elderly persons with low incomes – to gain access to stomatological care.

849. When it comes to the policy on medicines, Portugal has been working to ensure that the whole Portuguese population has access to innovations and to the use of the most effective and safe treatments. The following measures have been taken in this respect:

- Increased incentives for the prescription of generic medicines.

- Revision of the policy on contributing to the cost of medicines, with changes in the rates at which the State pays part of the cost, as well as a reduction in the price of some medicines and the profit margins on their sale. These measures achieved a containment of public spending worth 25 million Euros in 2005, 100 million in 2006, and 215 million in 2007.
- Improved access to medicines, by: (a) liberalising the ownership of pharmacies (around 400 pharmacies in June 2007); (b) creating pharmacies that sell to the public at SNS hospitals; (c) dispensing medicines to people at home via the Internet; and (d) liberalising the sale of medicines that are not subject to prescription.

850. Another of the areas of intervention that are Ministry of Health priorities is oncological medicine, inasmuch as the economic and social impact of malignant cancers for both patients and their families is substantial. The general objective of the National Programme for the Prevention and Control of Oncological Diseases (PNPCDO), which followed on from the National Oncological Plan 2001-2005 (PON), is to reduce the rate of cancer-related cases and deaths in Portugal by means of a range of measures, including: Health education and the promotion of good health; Early detection and diagnosis; better quality diagnoses; correct and timely treatment.

851. Protecting people's health throughout their lifecycles has played an essential role in improving both well-being and the health-related indicators, as well as in promoting the reconciliation of work and personal and family life, by giving a boost to services and responses that ensure fair access, a culture of parity, and the inclusion of social groups that are at risk. Of particular note are a number of specific measures designed to pursue these objectives:

- The improvement of the National Reproductive Health Programme (PNSR), by providing integrated interventions in the form of special doctor's appointments for risky pregnancies, the prenatal detection of abnormalities and early interventions, and the Child Development Centres (CDIs).
- A campaign for the implementation of priority attendance of coronary cases and strokes (CVAs), and support for the creation of cardiac and stroke-patient rehabilitation units.
- Support for the development of non-governmental organisations that represent users and families and of self-help groups – for example, the creation of a department that promotes active civil society participation in the definition and implementation of health policies at the central level of the Ministry of Health.
- The development and implementation of the Occupational Health Programme (PSO).
- The development and implementation of the National Programme for the Health of Elderly Persons (PNSPI).
- The project for promoting mental health and healthy lifestyles among the prison population, and the project for vaccinating both prison staff and inmates against infectious diseases.
- The drafting of an addendum to Law no. 46/2006, in such a way as to include persons with mental illnesses in the target groups of the current legislation on persons with disabilities.
- The creation of a national working group on Human Rights and Mental Health.

852. While not neglecting any of the other essential health-related areas, the Ministry of Health has defined a network of hospitals that effectively register cases of HIV/AIDS, infectious diseases, and drug abuse / a network that effectively refers cases of HIV/AIDS, infectious diseases, and drug abuse to hospitals, with support in terms of both counselling and the early detection of infection, including:

- The targeting of HIV/AIDS prevention campaigns at immigrants via civil society organisations and the media, with the objective of ensuring that people have access to the appropriate information.
- The promotion of measures that guarantee equal rights for people who live with HIV infection – particularly in the workplace, thanks to the Labour Platform Against AIDS (PLCS) – with the objective of reducing the stigma of HIV and discrimination.

- The development and implementation of preventive programmes targeted at drug users, prison inmates, and sex workers, in such a way as to ensure they have access to means of prevention, such as needle exchanges, for example.
- The development and implementation of National Programmes for the Prevention and Control of Non-Transmissible Diseases (PNPCDNTs).
- A project that supports therapeutic communities and detoxification units for drug users.

853. The following reforms have been made within the scope of the long-term care network, and have had a positive impact in terms of improvements in the accessibility and protection of good health.

854. It is well known that in the absence of measures and responses that are appropriate to the situation, the scenario in which on the one hand there is currently an increase in the prevalence of illnesses that evolve over a long period of time, some of which are accompanied by a high level of incapacity, and on the other there are new family patterns in which, according to the most recent census, one in five persons aged 65 or more lives alone, increases the risk of social exclusion and inequality.

855. In 2006 the National Network of Integrated Continuous Care (RNCCI) was created precisely in order to satisfy the current needs in terms of both integrated continuous care (medium and long-term convalescence) and palliative care for elderly and dependent persons.

856. The implementation of the RNCCI has made it possible to improve access to, and the suitability of, care, as well as to reduce the time chronically and acutely ill patients spend in hospital, and increase the efficiency of their treatments.

857. The National Network of Integrated Continuous Care is a partnership between the Ministries of Health and Labour and Social Solidarity, the essential objective of which is to promote the continuity of healthcare and social support for everyone who suffers either temporarily or indefinitely from some degree of dependence.

858. The new network's starting point aims to unmet needs. It was created as a model for integrated intervention, whose expansion from 2006 until 2016 will foster the articulation of the work of the health and social solidarity sectors. This integration is taking place at both governmental level and at that of the coordinating bodies, and always enjoys the participation of the different agents from both sectors.

859. The pilot experiment ran from November 2006 to June 2007, and made it possible to draw up a model for monitoring and assessing the Network's development. It is important to expand this Network in accordance with criteria based on need, geographic fairness, and the guarantee of quality, and to do so in partnership with the social and private sectors, without prejudice to the investment that needs to be made in the SNS network.

860. In order to speed up the Network's development the Ministry of Health approved a special funding programme for this year worth 15 million Euros. This is permitting investment in new units that are to be developed by both the social and private sectors and National Health Service institutions.

861. The Network's creation involves an intense partnership between the public (the Ministries of Health and Labour and Social Solidarity), social (Misericórdia charities), and private sectors (75% of all contractualised beds belong to Misericórdia charities or other private charitable institutions). It is being implemented with a high level of quality both in terms of the physical spaces, and above all as regards the requirements in relation to the teams of professionals involved.

862. The RNCCI is operationalised at three levels of coordination – central, regional, and local – via the Mission Unit for Integrated Continuous Care (UMCCI), and Regional (ECRs) and Local (ECLs) Coordination Teams. This organisational structure is designed to achieve an effective and

efficient articulation of the different levels at which the RNCCI is coordinated, thereby ensuring that its processes are both flexible and sequential.

863. The RNCCI model is based on a philosophy of separating functions (purchasing vs. provision of care) by contractualising services and decentralising geographic responsibilities.

864. By establishing local and regional networks of suitable responses, promoting the articulation between different sectors (such as government, local authority, and civil society), and developing and implementing communication, information and awareness-raising policies, it has been possible to:

- Create a number of convalescent units, which in 2007 already represented around 430 contracted, operational beds. By the end of 2008 it is expected that this figure will increase to 810, and in 2009 to about 1,446 beds.
- Create medium-term stay and rehabilitation units. In 2007 these already represented around 600 contracted, operational beds. By the end of 2008 it is expected that this figure will increase to 1,100, and in 2009 to about 1,591 beds.
- Create long-term stay and maintenance units. In 2007 these already represented around 670 contracted, operational beds. By the end of 2008 it is expected that this figure will increase to 1,947, and in 2009 to about 3,647 beds.
- Create palliative care units. In 2007 these already represented around 55 contracted, operational beds. By the end of 2008 it is expected that this figure will increase to 177, and in 2009 to about 419 beds.
- Create units that provide day-care and promote patient autonomy.

865. The latent needs that Portugal was seeing in this field of care are reflected in the occupancy rates of the RNCCI units: 92% for Convalescence, 97% for Medium and Long-Term Stays, and 83% for Palliative Care.

866. More than half the users who have been admitted to the RNCCI's inpatient units came from hospital (66.2%) and approximately a third from home (22.1%). Among the users who came from a hospital, the main types of care needed are Convalescence and Palliative (around 80%), which fall within the percentages that can be expected for this kind of care.

867. The average age of the users who have been admitted (72 years old) confirms that the RNCCI mostly deals with patients over the age of 65. Very elderly persons (aged 80 or more) account for 40% of patients.

868. Where the registration of users is concerned, it is important to mention the effort that has been made to design the Registration Monitoring System (SMR). This work created the conditions needed to uniformly apply the registration model on a national scale, thereby increasing the efficacy of the overall process and optimising its monitoring and supervision at the local and regional levels.

869. It is also important to note the implementation of the RNCCI's website, which offers a variety of information that will be of help to all the different groups concerned (users, professionals, and institutions).

870. Another of the areas in which there has been, and continues to be, a major commitment is the creation of integrated intervention plans for the provision of care, with a patient management that is shared by different levels of care, above all in relation to the most prevalent chronic processes (strokes, fractures of the femur).

iii. The quality of healthcare

871. The process of improving the quality of the services and departments that provide healthcare is underlain by organisational models designed to structure them from a perspective of better access and higher levels of quality.

872. Among the measures that have been taken to promote quality, the following are particularly significant:

- The implementation of a national experimental model for the integrated management of sickness, which is initially being applied to Chronic Renal Insufficiency, Obesity, Diabetes, and Multiple Sclerosis. This model is one of the health system's core strategies and an innovative tool for improving the provision of healthcare and ensuring the greatest effectiveness and efficiency of that care. It is also a constant and important vehicle for information that can be used to support decision-making. The model's subjacent organisational structure, which includes the creation of Highly Differentiated Centres (CEDs) as hubs of excellence for treatment and research, benchmarking, and the dissemination of good practices, represents a source of value added in quality terms for the whole health system.
- Specific detection programmes for women/men (for example, for cervical, breast, and prostate cancers, among others), so that the country's prevention policies do a better job of reaching both sexes by addressing their specific needs.
- The requalification of the Perinatal Emergency Services (maternity units), in order to improve the quality and safety of perinatal care.
- The reorganisation of the country's psychiatric emergency units.
- The implementation of the National Hospital Accreditation Programme (PNAH), which is seeking to certify compliance with rules and procedures in hospital environments.
- The development and implementation of the National Infection Prevention and Control Programme (PNPCI), the objective of which is to detect and correct situations that could promote the appearance and development of infections in a hospital environment.
- The implementation of rules on abortions (IVGs) at authorised hospital establishments and in compliance with the precepts laid down by law. Besides abolishing the legal penalties for abortion, this measure ensures that IVGs are carried out in accordance with all the applicable rules and clinical procedures and that the quality of the care provided is guaranteed.
- The development and implementation of the National Health Centre Qualification Programme (PNQCS), which represents an evolution of the project for assessing the organisational quality of health centres (MoniQuOr) and will also incorporate the results of surveys of the levels of satisfaction of both users and professionals.
- The drawing up of national guideline/information standards for good professional practice, clinical management, and improved environments / safety / security and health for professionals in this field.
- The development and implementation of internal and external clinical audits, with a view to a progressive improvement in the quality of the provision of care.
- The progressive organisation of the Local Mental Health Services (SLSMs), which are responsible for the psychiatric supervision of persons linked to Community Mental Health Units or Teams (U/ESMCs). (This involved preparatory work on the legislation to create a National Network of Integrated Continuous Mental Healthcare – RNCCISM).
- The contractualisation of services for the provision of the different types of integrated continuous care. 104 agreements have been signed with a total of 74 institutions.
- An intense Training Plan involving more than 3,000 professionals from the RNCCI's Regional and Local Coordinating Teams (ECRLs) and including seminars, workshops, and traineeships at units that are a reference at the international level. The main objective of this Plan is the acquisition of knowledge and know-how that will support the operation and organisation of the units and teams which provide care, and to offer direct technical support for both their consolidation and that of the RNCCI's Regional and Local Coordinating Teams in relation to the subjects which UMCCI defines as priorities.

- The formation of teams with specific professional profiles within the different units, in such a way as to provide complete cover for users' needs. These teams possess heterogeneous but complementary profiles, and are key pillars in the pursuit of the objectives of promoting and maintaining patients' autonomy, preparing their discharge, involving family members, and undertaking occupational activities (e.g. physiatry, physiotherapy, speech therapy, occupational therapy, social and psychological assistants).
- Visits designed to supervise how care is being provided.
- The definition of basic quality indicators and the development and implementation of a systematic, continuous process of assessing results, services, and working processes, such that they can be acknowledged by the RNCCI as a whole and can be used to make organisational improvements (benchmarking).
- Audits.

Dir. Q. 57. Provide information on the measures taken, (a) To improve child and maternal health as well as sexual and reproductive health services

873. A Division for Sexual and Reproductive Health exists within the General Directorate of Health of the Ministry for Health. This Division namely produces technical and quality norms, monitoring simultaneously their application.

874. Portugal presents one of the best European rates in the field of maternal and infant mortality. It must be said that the survey of the maternal and children's health is free.

875. In the field of family planning the consultations and the various contraception means are also free and of universal access.

876. It accrues that the support to the more vulnerable groups, namely destined to prostitution, home violence, female genital mutilation, detainees and ethnic minorities makes the object of special programs.

Q. 57 – (b) To prevent treat and control diseases linked to water and to ensure access to adequate sanitation,

877.. In Portugal, in the 2000-2010 decade, the Strategic Plan for Supply and Cleaning of Residual Waters (PEASAR I) allowed to give a qualitative step, in the field of supply, from 80% of the population served with water at home, to 92%. In the field of draining residual waters, the served population went from 65% to 80%, in terms of adequate treatment we are at 70% of the population.

878. To serve 95% of the population with water at home, and 90% with draining and treatment of used waters are the objectives of the Second Strategic Plan for Supply and Cleaning of Residual Waters PEASAR II).

In parallel, the System of Alert and Survey of Water Originated Diseases was also implemented, one part of these diseases being included in the National System for Survey of Mandatory Declaration Diseases (DDO).

Q. 57 – (c) to implement and enhance immunization programmes and other strategies of infectious disease control

879. Portugal is doted with a National Vaccination Program, free, which comprises all the population, attaining high levels of vaccination coverage over 90% for a great number of vaccines), the most recently introduced in the Program (in 2008) being the vaccine against Human Papilloma Virus.

880. Specific epidemiologic survey programs exist for various transmissible or infectious diseases, namely for the Invasive Pneumococcal Disease, Poliomyelitis, Measles, Congenital Rubella Syndrome, and others.

Q. 57 – (d) to prevent the abuse of alcohol and drugs.

881. Concerning measures taken to prevent the abuse of alcohol and tobacco, and the use of illicit drugs and other harmful substances in particular among children and adolescents, the main investment at the Institute on Drugs and Drug Addiction¹³⁶ (the main national actor in the area of drug abuse prevention) has four priority areas:

- 1) The Operational Plan of Integrated Responses (PORI) is the major intervention of the IDT and aims at performing a national needs assessment to define territories for priority intervention in cooperation with the local communities and governmental and non-governmental organisations.
- 2) Program of Focused Intervention (PIF) – 23 projects are currently being developed by the IDT, to be tested as good practices and help to develop future accreditation criteria for this area;
- 3) Diagnosing and designing interventions for areas lacking in responses, such as the use of steroids in gyms, the university setting, minors under the tutelage of the State, interventions in the work setting and in professional schools;
- 4) The consolidation and dissemination of a website addressed to young people www.tu-alinhas.pt

882. During the school year 2008/2009, several prevention activities, and projects were developed in the school settings, in a more global perspective of health promotion and in a more specific scope of thematic approach to the use of psychoactive substances.

883. Also in the school year of 2008/2009, continuity was given to the implementation of several prevention programmes, in a structured and continued way; examples are: *the Atlante Project* (for the second and third cycle of Basic School); *the Growing up by playing Programme* (for the first cycle); *the Preskills programme (PRÉ-Competências)* for the preschool; the launch of *Me and the others Project*; the *Village Project* and the *Among Everyone Project*, among others.

884. Another example of universal prevention is the Project “Copos. Quem decide és tu” – is a partnership Project between Portuguese Red Cross (CVP) and the IDT, with the support of General Directorate for Health (DGS), with the intention to raise awareness between secondary school population, aged between 15 and 20 years, to the problems of harmful use and early drinking. The project has substantially increased its interventions, expanding to more districts (17), more schools (23) and more students (4 342) and is in a consolidation process.

885. The IDT keeps the national telephone helpline, *Linha Vida – SOS Drogas*, an anonymous and confidential service that gives priority to counselling, information and referral in the drug abuse area and associated themes (adolescence, sexuality, AIDS, amongst others). In 2008, *Linha Vida* was available from 10 am to 8 pm every working day.

886. Other community intervention project using new technologies is www.tu-alinhas.pt, a website that promotes healthy behaviours and prevention of drug use in a teenager-youth public (12-21 years old). This project is running since 22nd of February 2007, has both entertaining and pedagogical approaches with the main goal of informing and promoting healthy behaviours and drug addiction prevention.

887. Regarding measures to ensure adequate treatment, healthcare for drug users is organized in Portugal mainly through the public network services of treatment for illicit substance dependence,

¹³⁶ <http://www.idt.pt/EN/Paginas/HomePage.aspx>

under the IDT, within the Ministry of Health. In addition to public services, certification and protocols between NGOs and other public or private treatment services ensure a wide access to quality-controlled services encompassing several treatment modalities. The public services provided are free of charge and accessible to all drug users who seek treatment.

888. The main priorities established by the National Plan for the 2005-2012 period in the area of treatment are:

- To ensure just-in-time access to integrated therapeutic responses to all those who request treatment (target to all citizens);
- To make different treatment and care programmes available, encompassing a wide range of psycho-social and pharmacological possibilities, based on ethical guidelines and science based practices (target to problematic drug users and vulnerable population);
- To implement a continuous process for improving quality for all therapeutic programmes and interventions (target to professionals in the treatment area).

889. Indicators available continue to suggest effective responses at treatment level (increase in the number of clients involved in both drug free and substitution programmes) and at harm reduction level. The number of active clients in the outpatient public treatment network increased as well as first treatment demands (for the second time since 2000 changed the decrease trend). Heroin continues to be the main substance associated to health consequences and specifically in the sub-population of drug users that seek access to different treatment structures, but references to cocaine, cannabis and alcohol in this setting are increasing.

890. The availability of substitution programmes continues to increase and the number of clients continues to increase steadily (increases were registered in the number of clients in methadone and buprenorphine programmes).

891. Finally, on the measures taken on rehabilitation of drug users, it is important to refer that the National Plan on Drugs and Drug Addiction 2005-2012 includes objectives and actions based on integrated approaches that simultaneously put the focus on the user and family and on the social systems.

892. In 2008, a monitoring system was developed to monitor and evaluate activities and interventions, which allows every three months to have a state of play of the national situation regarding interventions in rehabilitation.

893. Housing is a fundamental component for establishing procedures for a sustained and durable integration, as it is a central part in people's lives. The housing issues are dealt through a strategy involving partnership and flexibility, associating all the local responsible, including Local Government, Private Institutions of Social Solidarity, Social Security Institute, Institute of Housing and Urban Renewal, among others. During 2008, 796 users have been integrated in a housing response, being most situations temporary accommodation.

894. 677 users that had finished their treatment of psychoactive substances abuse (via outpatient services, therapeutic communities and prisons) and are in reinsertion process have benefited from the Apartamento de Reinserção Social responses (Social Reintegration Apartments). Twenty-eight apartments are operational.

895. Education is one of the aspects of individual lives that can and should be encouraged in the context of the intervention in rehabilitation. In this context, 575 users with specific needs were integrated into vocational training, organized by the IEFP or other training organizations. This number, which may be considered relatively low, can be explained by the low level of education of users, not always compatible with the profiles required by courses and also by some resistance in receiving population using psychoactive substances.

896. Employment is another crucial element for reintegration. The approach developed in the context of integration focuses on the acquisition and consolidation of conditions which enable people to access and maintain respectable and qualifying jobs.

897. In 2008, 1654 users were professionally integrated. It is considered that this number is not alien to the economic crisis that characterized the year 2008, which contributed to reduce the employment opportunities available. In this context of economic recession, people with difficulties in accessing the labour market have further limited their opportunities.

898. Among the responses in the area of socio-professional integration already referred, *the Life –Employment Programme* (PVE), continues to be of vital importance as a resource in the area of employment, which in 2008 benefited 1 168 individuals.

899. The PVE programme is targeted specifically to people with addiction problems, in working age, who are or have completed treatment process, in a therapeutic community or an outpatient care, including drug users undergoing treatment in prison settings appropriately framed by a treatment centre or in the prison.

900. The PVE aims at promoting social and professional reintegration of people with drug problems as an integral and fundamental part of the treatment process, through the use of 5 specific measures: mediation for training and employment; stages of professional integration; award of professional integration; support for employment and self-employment.

Q.57 – (e) Provide information on the measures taken to: e) prevent HIV/AIDS and other sexually transmitted diseases, educate high-risk groups, children and adolescents as well as the general public on their transmission, provide support to persons with HIV/AIDS and their families, and reduce social stigma and discrimination

Q. 57 – (f) To ensure affordable access to essential drugs, as defined by the WHO, including anti-retroviral medicines and medicines for chronic diseases;

901. As it concerns measures to prevent HIV/AIDS as well as to provide support to persons with HIV/AIDS its worth noting in 2008 the enlargement of the socio sanitary structures and responses to drug users, the definition and implementation of technical guidelines in order to improve the quality of intervention and procedures that are more efficient, as well as the participation in working groups to define responses to populations with specific needs.

902. Prevention of drug-related infectious diseases amongst problematic drug users is mainly ensured through the national syringe exchange programme “Say no to a second hand syringe”, established by the National Commission for the Fight Against AIDS (CNLCS) in collaboration with the National Association of Pharmacies (ANF). This programme was externally evaluated in 2002 and it was concluded that it had avoided 7 000 new HIV infections per each 10 000 IDU at that time of existence of this programme.

903. *Programme Klotho* (Project of Early Identification and Prevention of HIV/AIDS directed to Drug Users) is an initiative of the IDT, and the National Coordination for HIV/AIDS Infection which aims at early detection of the infection amongst drug users and their early referral to treatment, thus increasing their quality of life and life expectation. The program was designed as a pilot intervention in public health, targeted to a population of approximately 30 000 drug users, from the public drug addiction treatment, and aimed to develop a network of early identification of HIV / AIDS through the local integration of health care providers. The program was focused on drug users and adapted to the specificities of their relation with health structures, using rapid tests for detection of HIV infection and promotion of mechanisms for referral between providers of health care.

904. In Portugal, treatment for HIV, AIDS and Hepatitis B and C is included in the National Health Service and therefore available and free for those who need it.

905. The decreasing trend in the percentage of drug users in the total number of notifications of HIV/AIDS cases continues to be registered. Concerning HIV infection in the treatment setting, the percentages of HIV positive cases (prevalences) varied between 9% and 25%, showing a tendency for decrease in last years.

906. Hepatitis B positive cases (prevalences) remained stable in comparison to previous years and Hepatitis C registered the smaller values of the last four years.

907. This decrease may be related, amongst other factors, to the implementation of harm reduction measures, which may be leading to a decrease in intravenous drug use (also visible in data concerning administration route in first treatment demands), or to intravenous drug use in better sanitary conditions, as indicated by the number of exchanged syringes in the National Programme “Say no to a second hand syringe”.

Q. 57 – (g) Provide information on the measures taken to: (g) ensure adequate treatment and care facilities for mental health patients, as well as periodic review and effective judicial control of confinement.

908. Although scarce, existing data suggest that the prevalence of mental health problems does not differ greatly from that encountered in European countries of similar characteristics, while the most vulnerable groups (women, the poor, the aged) seem to exhibit a higher risk than in the rest of Europe.

909. Analysis of the mental health system in Portugal reveals some positive aspects in its development through recent decades. It was one of the first European countries to adopt a national law (1963) in accordance with the principles of sectorisation, which enabled the creation of mental health centres in every district and the development of various important movements, such as social psychiatry and mental health in primary healthcare.

910. The mental health legislation, approved in the 1990s (Law no.36/98 and Law Decree no. 35/99) reinforced this capital, in accordance with the principles recommended by the most important international organisations in the area of mental health service organisation.

911. The creation of decentralised services was a development that had a very positive impact in the improvement of accessibility and quality of care, enabling delivery of care closer to the population and a greater interaction with health centres and community agencies. The coverage of the national territory for these services is still far from complete, but comparing the current situation with that of 30 years ago, important steps have been made. Another positive aspect was the development of psychosocial rehabilitation programmes and structures, created at the end of the 1990s, as part of the EU’s Programme Horizon, of Decree no 407/98, and of employment support legislation. Although of limited scope, these programmes represented a significant break with the prior situation, in which residential facilities in the community and social firms for the seriously mentally ill were entirely nonexistent in Portugal, Despite these indubitably positive aspects, due to lack of planning and consistent support in the improvement of mental health services, Portugal is still lagging behind in this field in relation to other European countries. Existing data and analysis of results from research undertaken as part of this report show that mental health services suffer from serious deficiencies, in terms of accessibility, equity and quality of care. In fact:

912. **i.** Many local mental health services continue to be reduced to hospitalisation, outpatient consultations and, sometimes, day hospital, and have no community mental healthcare teams, with integrated case management, crisis intervention and programmes involving families.

913. A preference to resort to emergency services and the difficulties reported in booking consultations, suggest the existence of problems in terms of accessibility to specialised care. For its part, the interval between discharge and subsequent consultation, associated to the proportion of re-

hospitalisation cases without outpatient contact, found out in the same study, suggest the existence of problems regarding continuity of care.

914. **ii.** Mental health teams continue to rely on a small number of psychologists, nurses, social workers, occupational therapists and other non-medical professionals, with the majority of teams maintaining the traditional model of psychiatric hospitalisation services instead of the model now followed in modern mental health services.

915. The quality of services, according to the assessment made with the participation of professionals, lies at a level below reasonable. The level of quality of outpatient services is less to that of hospitalisation units at a time at which the trend increasingly points in the opposite direction.

916. The most critical areas of non-fulfilment of quality criteria and standards are those with respect to human resources (provision, distribution, interdisciplinary composition of the staff) and to administrative organisation. The number of people in contact with public services (168,389 people in 2005) shows that only a small part of those with mental health problems have access to specialized mental health services. Even assuming that only people with severe mental illnesses attend mental health services — which we know is not the case - the number of contacts (1.7% of the population) is still extremely low in relation to what should be expected.

917. **iii.** The majority of resources continue to be concentrated in Lisbon, Oporto and Coimbra. Services created in various parts of the country, with excellent facilities, only operate partially, and in some cases there are units still to be opened, as it has not possible to secure staff, who have been concentrated in hospitals in major urban centres.

918. The distribution of psychiatrists between psychiatric hospitals and psychiatric departments in general hospitals continues to be very unbalanced (2.6 and 1.1 doctors per 25,000 inhabitants, respectively). This situation is even more difficult to justify given that only 24% of the total patients were treated in psychiatric hospitals and 71% of consultations were carried out in general hospitals.

919. **iv.** Hospitalisation continues to have the majority of resources (83%), while all scientific evidence shows that interventions in the community are much more effective and preferred by patients and their families. An inevitable consequence of this distribution of resources is the reduced development of services in the community registered in Portugal.

920. The management and financing model of the services has represented another fundamental restraint to the development of mental health services. In placing the administration of local services in general hospitals, not fulfilling the determination to transform them into centres with some administrative and financial autonomy, has impeded any consistent attempt to develop community care. Psychiatric hospitals, for their part, in the absence of any national or regional plan, have been able to operate without any obligation to observe the objectives attributed to them by the mental health law.

921. There are many difficulties and insufficiencies that should be taken in due consideration. At present there are also some opportunities that could help to overcome many of these difficulties, including: the integrated care programme for the severely mentally ill; the development of family health units; and the creation of a psychiatric unit in all new general hospitals under construction/in planning stages.

922. Some measures to promote research activities, in Portugal, planned for the coming years, could also help overcome the difficulties registered. This point is particularly important: the development of research capacity in mental health, in particular in the areas of epidemiology and services research, is an extremely effective factor in the development of a culture of public health and evaluation, and for the constitution of a critical mass, essential for the improvement of mental health care.

923. Finally, opportunities offered through international cooperation should be fully taken. The WHO, which has already made a valuable contribution in the elaboration of the new Portuguese Mental Health Plan 2007-2016, set by the Ministry of Health, can provide technical cooperation in its implementation and assessment. The European Union, for its part, following the approval of the Helsinki Declaration and of the Green Paper on mental health, will certainly be able to make important contributions for reforms to develop and help integrate Portugal in the improvement of mental health services currently underway on a European level.

Article 13 – The Right to education

Dir. Q. 58 - Indicate to what extent the form and substance of education in the State party are directed towards the aims and objectives identified in article 13 of the Covenant, and whether school curricula include education on economic, social and cultural rights.

924. Portugal recently elected for a period of four years a programme¹³⁷; raising human rights awareness through educational programmes is one of the guidelines in the normative documents on the national Education System, namely:

925. The Framework Education Act (Legislation: Law 46/1986, 14th October), informed by a global active citizenship perspective which aims at preparing students for critical and independent thought on spiritual, aesthetic, moral and civic values; and at allowing for their balanced and harmonious development, both at physical, moral and civic levels, that is, aiming at educating students to be responsible citizens, capable of autonomous attitudes.

926. The general curriculum guidelines for Pre-school Education (Legislation: Order no. 5220/1997, 4th August) stress the need of promoting children's personal and social development, based on situations of democratic daily life, in the perspective of Education for Citizenship.

927. In the general curriculum guidelines for Basic Education, Education for Citizenship (Legislation: Decree law no. 6/2001 18th January) is considered a cross-curriculum area. These guidelines also set up a non-disciplinary area – Education for Citizenship – aiming at children's integrated development. Another non-curriculum area – *Área de Projecto* – provides the opportunity for the development of citizenship and human rights projects.

928. The curriculum guidelines for Secondary Education (Legislation: Decree law no. 74/2004, 26th March) also refer to Education for Citizenship as a curriculum cross-cutting area. In addition, schools organise activities around this theme, favouring and valuing students' participation. These activities also aim at supporting the personal and social development of students, namely, by promoting health awareness and preventing risk behaviour.

929. The teaching of Portuguese as a non-mother language in the National Curriculum has been a concern of the Ministry of Education, which led to the issuing of guidelines to guarantee the school success of children of immigrant families, namely the guidelines for a programme aiming at the inclusion of students for whom Portuguese is not the mother language¹³⁸.

930. Teacher initial training for pre-school, basic and secondary education includes cultural, social and ethic components and learning /awareness of the problems of present times.

931. Teachers have been developing training options in the area of Education for Citizenship and Human Rights. Several support materials have been published by the Ministry of Education or co-published by the ministry and other private and public services, namely in the Human Rights field in a school context.

¹³⁷ www.portugal.gov.pt/pt/GC18/Documentos/Programa_GC18.pdf

¹³⁸ Documento Orientador do Programa para a integração dos alunos que não têm o Português como língua materna

Dir. Q. 59 – Indicate how the obligation to provide primary education that is compulsory and available free for all is implemented in the state party, in particular: (a) the level or grade until which education is compulsory and free for all

932. In Portugal basic education is compulsory and free for 9 years. In accordance with the Education Act, Law no 46/86 of October 14th, compulsory education is universal, and lasts for 9 years. It is mandatory for all children from 6 to 15 years of age and can be taught in public, private or cooperative schools. **Chart 1. Annex** and **Table 82. Annex**.

933. Compulsory education is divided into three consecutive cycles:

- 1st cycle, which lasts for four years (6 to 10 years old);
- 2nd cycle, which lasts for two years (10 to 12 years old);
- 3rd cycle, which lasts for three years (12 to 15 years old)

934. The objectives of compulsory education, set out in the Education Act, are: to provide general education for all pupils; to ensure that theoretical and practical knowledge, schooling and everyday life are interrelated; to provide physical and motor development, encourage manual activities and promote artistic education; to teach a first foreign language and begin a second; to provide the basic knowledge that will enable pupils to continue their studies or to be accepted on vocational training courses; to develop knowledge and appreciation of the specific values of Portuguese identity, language, history and culture; to develop independent attitudes; to provide children with specific educational needs with suitable conditions for their development; and to create conditions that will encourage the school and educational success of all pupils.

Q. 59 – (b) Any direct costs such as school fees, as well as the measures taken to eliminate them

935. In public schools, there are no direct costs, like school fees, concerning basic school. In compulsory education there are no entrance, enrolment or attendance fees, and students can use books and school material free of charge, as well as meals and lodging, depending on the family's socio-economic circumstances. School transport is free for all students within this education level. Since 2008 the public transportation monthly title has a special rate for students from 6 to 18 years old.

936. The expenses of family support schemes in private and cooperative schools may be borne by the State.

Q. 59 – (c) Any indirect costs (e.g. expenses for school books, uniforms, transport, special fees such as exam fees, contributions to district education boards, etc) and the measures taken to alleviate the impact of such costs on children from poorer households

937. We must consider indirect costs concerning education. The effort of the families in this area has been supported by some state initiatives.

938. In the field of student's social support services, changes have led (since 2008) to a growing number of beneficiaries, which has almost tripled from 240,000 to more than 700,000, and to increased support for books, school material, and accommodation for pupils in the 2nd and 3rd cycle of basic and secondary education, as well as financial help for more needy pupils.

939. In the 2008/2009 school years, student's social support services have undergone alterations, aiming at its development and wider scope. A new, simpler, criterion was adopted for ranking family incomes, which resulted in trebling the funds dedicated to social support, now also

covering secondary education students, in similar conditions to pupils attending compulsory education.

940. Furthermore, the school milk distribution programme covers all pre-school education children and all 1st cycle pupils. The generalization of meals, subsidized for all pupils and free for the most needed, was also introduced, as well as financial help to curriculum complementary activities like study visits and favourable lodging conditions in student homes. The amount of this financial assistance is related to the income of families. These measures are a fundamental contribution to social inclusion, to higher success rates and to prevention of early school leaving.

941. Aimed at the extension and consolidation of pre-school education, a survey was done covering the neediest municipalities and those furthest away from the towns and cities in which 100% coverage has not yet been achieved. As a result, in 2008 the Programme for Support the Extension of Pre-School Education was launched.

942. In this way, the measure covered in PNAI for intervention in the network for pre-school facilities, increased the number of places in pre-school, for children between the ages of three and five, contributing to the social and educational development of children and to the better adjustment of personal, family and professional life of young families.

943. The reorganisation of the School Network for the 1st Cycle of Basic Education led to opening 60 school centres by approving a financial instrument to support the requalification of 1st. cycle schools. In cases where schools were closed because of insufficient number of pupils, school transport for pupils to new schools was provided by the municipalities. The reorganisation of the 1st cycle school network is of key importance, playing a decisive role in reducing school failure and in avoiding early school dropout.

944. Creating Activities for Curricular Improvement (1st Cycle) increased the time spent at school (up to 5.30 pm) and guaranteed full occupation of school time with replacement classes and other activities monitored by teachers should class teachers be absent. The Full Time School initiative was planned not only as an instrument to improve learning but, above all, as a way of supporting family units in which both parents very often work.

945. The general provision of English teaching for pupils in the first 4 years of public schooling was another inclusion measure introduced in public schools, especially if we consider that this offer was, until then, only provided by private schools.

Dir. Q. 60 – Indicate the measures taken to make secondary education in its different forms, generally available and accessible to all including: (a) Concrete steps taken by the State party towards progressively achieving free secondary education

946. By establishing the objectives and organisation of upper-secondary education, the Education Act, Law no 46/1986 of October 14th defines it as a unique 3 year phase of post-compulsory education that is organised differentially, be it for further study or entry into the world of work. Links between the two paths should be guaranteed.

947. The Education Act also establishes the aims, access requirements and organisation models of vocational training as a special type of school education.

948. With Decree-Law no 26/1989 of January 21st, vocational schools were created to increase and diversify vocational training via a network of local schools that use public and private resources.

949. The regime that regulates the organization and running of vocational schools was amended by Decree-Law no 4/1998, of 8th January, in order to consolidate vocational teaching at secondary level.

950. The regime that regulates the creation, organisation and running of technological specialisation courses, post-secondary, non-higher education, was established by Administrative Rule no 989/1999 of November 3rd, and amended by Administrative Rules no 698/2001 and no 392/2002 of April 12th. This legislation was repealed by the Decree-Law no 88/2006, of 23rd May, which establishes new rules for these courses.

951. New study plans for secondary education came into effect in the academic year 2004-2005 as part of a reform that aims to adapt secondary-level training to social changes and the developmental needs of the country. Essentially, the changes are defined in Decree-Law no 74/2004 of March 26th, which establishes the organisational and management guidelines for the curriculum, as well as to the assessment and certification for this level of education.

952. Administrative Rules no 550 A, 550 B, 550 C, 550 D and 550 E, of May 21st, put the principles of Decree-Law no 74/2004 into effect, defining the regulations governing the organisation, running and assessment of technological courses, specialised artistic courses, vocational courses, scientific-humanistic courses and recurrent education courses respectively.

953. The general foundations of specialised art education (visual arts, audiovisual, dance and music), until 2004, were laid out in the legislation of 1990 (Decree-Law no. 344 of November 2nd), were subject to a curricular reform within the legal framework instituted by Decree-Law no. 74/04 of March 26th.

954. The restructuring of music and dance courses was established in 2008. The two specialist schools for the visual arts have already implemented new study plans with the active participation of schools since 2004/05.

955. The New Opportunities Initiative, already mentioned in article 6, item 18 of this report, anchored in the principle that secondary education is the main goal to attain, in terms of qualifying youths and adults, aims at offering them the opportunity to acquire the competences essential to the knowledge-based economy.

956. The inclusion of “Portuguese as a non-mother Language” in the National Curriculum, both at basic and secondary levels, guarantees to students whose mother language is not Portuguese curriculum activities to help in the mastering of the Portuguese language (Normative order no. 30/2007, 10th August).

957. In Portugal the rate of the early school leaving has decreased from 45.0% in 2002 to 35.4% in 2008. Those numbers mean a 21.3% improvement in a period of six years. Due to the recent extension of compulsory schooling up to 18 years age (assuming that at 18 years student completed the 12th year of compulsory education), it’s expected that the secondary level rate of schooling will keep growing.

Q. 60 – (b) The availability of technical and vocational education, and whether it enables students to acquire knowledge and skills, which contribute to their personal development, self-reliance and employability

i. A new opportunity for young people

Vocational training

958. Vocational Education Courses are one of the approaches in secondary education, and they are geared to providing young people with an initial qualification, encouraging their insertion in the labour world without prejudicing the possibility of pursuing higher education studies. These courses last for three years, and lead to a diploma in secondary education and also to a level 3 vocational qualification.

959. Vocational courses are available in schools for this purpose, both public and private vocational secondary schools, integrated in the public network of schools. These courses are for adolescents who have completed basic education (9th year of schooling) and who want training that will prepare them for entering the labour market.

960. The essential objectives of these courses are to: (i) respond to the needs of vocational training; and (ii) qualify and diversify supply by creating a regionalised network of initial level 3 training leading to qualification.

961. The curricular model for vocational courses is based on vocational profiles that shape training references per vocational group for the respective qualifications. The model is based on a curricular syllabus organised according to disciplines that are grouped into the three components of training, which are socio-cultural, scientific and technical, in which Training is set in a Labour Context.

Education and Training Courses

962. Education and Training Courses were created within the framework of the Curricular Revision of Secondary Education, first applied in the 2004-2005 school year, and designed as initial training providing qualification, preferably for adolescents of 15 years of age or over, at risk of school dropout or who left the education system prior to completing 12 years of schooling. These courses were also for those who complete 12 years of schooling but have no vocational and wanted to enter the labour world.

963. Education and Training Courses provide a level 1, 2 or 3 qualification, or the equivalence of compulsory schooling levels (6th, 9th or 12th year), and are provided by the network of public, private and cooperative schools, vocational schools and centres directly managed and funded by the Institute for Employment and Vocational Training, or other accredited training bodies, in coordination with community bodies, namely local authorities, companies or corporate organisations, other social partners and local or regional associations. This qualification is covered by protocols undersigned by the bodies involved, with the aim of making best use of physical structures and of human and material resources.

Dir. Q. 62 – Indicate the measures taken to promote literacy, as well as adult and continuing education, in a life-long perspective

i. A new opportunity for young people

a) Technological Specialisation Courses (TSC)

964. Technological Specialisation Courses (TSC), as part of the New Opportunities Initiative, were thoroughly reorganised in terms of access, training structure and entry conditions for TSC diploma holders to higher education.

965. These courses are part of the National Qualification System and have the same certification and vocational qualification characteristics, providing non-higher, post-secondary training in the same area or in a training area similar to that in which the candidate obtained level 3 vocational qualification. They lead to a diploma in technological specialisation that corresponds to a level 4 vocational qualifications.

966. These courses are for: i) those who have a course in secondary education or a legally equivalent qualification; ii) those who have been approved in all disciplines in the 10th and 11th years and who have been enrolled in the 12th year of a secondary education course or legally equivalent qualification and have not completed it; iii) those with a level 3 vocational qualification; v) those with a diploma in technological specialisation or those with a higher education level or diploma who want vocational re-qualification.

b) Specialised Artistic Education (SAE)

967. Specialised Artistic Education (SAE) it is a form of training at secondary level and is planned from the dual perspective of entering the working world and the pursuit of further studies.

968. Dual certification is awarded on completing an SAE course, in the form of a diploma for completing secondary level education and a certificate of level 3 vocational qualifications.

969. Depending on areas, the SAE is structured on basic education (2nd and 3rd cycles) for Dance and Music, which should be taught at an early age and in sequence, an is completed in secondary education; or it is begun an completed at secondary level in the Visual and Audiovisual Arts and Theatre, where early teaching is not essential.

970. SEA courses may be administered by the network of public, private and cooperative schools.

ii. A new opportunity for adults

- National System for the Recognition, Validation and Certification of Competencies

971. The National System for the Recognition, Validation and Certification of Competencies¹³⁹, implemented in 2001 by a joint initiative of the Ministry of Education and Ministry of Labour and Solidarity, was boosted decisively by the New Opportunities Initiative, particularly with the expansion of the Network of Centres that promoted it, now known as the New Opportunities Centres, and an increase in the levels of qualification and services to which adults have access.

972. One of the essential objectives of the National Qualifications System is to reinforce and consolidate the process of recognition, validation and certification of competencies. In line with this objective, the New Opportunities Initiative promotes the expansion of the Network of New Opportunities Centres as structures well suited to responding to the needs of qualifying the adult population, to extend their action to secondary level and to recognizing and validating competencies for vocational purposes while, at the same time, improving the quality of the work they do.

973. The work of the New Opportunities Centres is designed for adults who are 18 years of age or older who have not completed the 1st, 2nd or 3rd. cycle of basic education, or secondary education.

974. The New Opportunities Centres are promoted by public and private bodies, such as schools, vocational training centres, local authorities, companies and associations, duly qualified or certified, well represented in terms of location or sector and with technical capacity.

975. The National System for Recognition, Validation and Certification of Competencies, through a formal certification of knowledge, skills and competencies acquired in personal, social or labour contexts, have contributed significantly towards raising the school qualification of the Portuguese population, as well as improving conditions of employability and encouraging a return to the formal process of education and training.

- Courses for Adult Education and Training

976. Courses for Adult Education and Training have proved to be a central instrument in public policies for adult qualification. They aim to reduce deficits of qualification and so encourage more active citizenship and better levels of employability, as well as social and professional inclusion.

¹³⁹ Processes for the Recognition, Validation and Certification of Competencies are based on a portfolio of past learning, a repertoire of experiences recorded using a combination of methodologies (for example, balance of competences, biographic approach, practice and observation of specific activities), and are developed based on Reference Competence, a Key to Education and Training for adults, at basic and secondary level, and on Standards for Vocational Training, included in the National Qualifications Catalogue.

977. Adult Education and Training Courses are for people aged 18 or over, without adequate qualification for entering or gaining promotion in the labour market and, in first place, those who did not complete basic or secondary education.

978. Adult Education and Training Courses are promoted by public, private or cooperative bodies, namely schools, vocational training centres, local authorities, companies or corporate associations, unions and local, regional or national associations, providing they are a part of the network of training bodies within the National Qualifications System.

979. Adult Education and Training Courses at secondary level are organised into three types that take into consideration the school qualification adults have already obtained. Learning paths were built for those who already have the 9th, 10th and 11th years of schooling.

980. Adult Education and Training Courses provide certification for a level of schooling and a level of vocational qualification (dual certification), or only one of these components in the case of an adult who already has the other, conformity with the references in the National Qualifications Catalogue being assured.

- Modular Training

981. Also part of the framework of the New Opportunities Initiative, apart from Adult Education and Training Courses, the development of short duration modular type training has also been pertinent in responding to the needs of qualifying the adult population, in particular the employed population. This modular training promotes access to training modules in short in duration training units and can be capitalised for one or more qualifications, based on the adult education and training paths planned in the National Qualifications Catalogue.

982. Modular Training is for people aged 18 or over, without adequate qualification for the purpose of entering or gaining promotion on the labour market and, above all, for those who have not completed basic or secondary education.

983. Short duration training units inserted in basic level paths are designed, preferably, for adults whose school qualification is lower than the 3rd cycle of basic education. Access to short duration training units inserted in secondary level paths, demands a school qualification of, at least, the 3rd cycle of basic education. Access to short duration training units inserted in non-higher, post-secondary paths follows the legal precepts of Technological Specialisation Courses.

984. Modular Training is promoted by public, private or cooperative bodies, such as schools, vocational training centres, local authorities, companies or corporate associations, unions and local, regional or national associations, providing they belong to the network of training bodies within the scope of the National Qualifications System.

- Second Chance Learning

985. Second chance learning, implemented in basic and secondary level education, is part of an education policy aiming to provide schooling to those who did not benefit from it at the right age, those who dropped out of the education system early and all those who want this form of learning for reasons of cultural, technical or vocational promotion.

986. The New Opportunities Initiative establishes reorganisation of the model for second chance learning as a measure, and it becomes a training response based on the layout of Adult Education and Training Courses, as these can provide more agile and flexible training paths, although safeguarding the second chance solution at secondary level adjusted to the pursuit of studies.

987. Within the framework of Curricular Revision for Secondary Education, second chance secondary education is an approach in adult education, providing a second opportunity for training in

the school context, based on an organised study plan, an assessment model and specific programmes that make it possible to balance study time with work.

988. Second chance learning courses are for individuals who, having completed the 9th year of schooling or the equivalent, want to obtain secondary level training and, depending on the course, a level 3 vocational qualifications.

989. Second chance secondary education functions currently as a system of modules that can be capitalised per discipline and disciplinary area and cover science and humanities courses, technological courses and specialised artistic courses in the visual arts and audiovisual arts, organised according to discipline, on a modular basis, completed in three years, the curricula for which include components of general, specific, scientific and technological training.

- Promotion of literacy

990. Regarding the promotion of literacy, the National Reading Plan aims to raise levels of literacy of the Portuguese. It is an initiative of the responsibility of the Ministry of Education, in cooperation with the Ministry of Culture and the Office of the Minister for Parliamentary Affairs, and it is assumed as a political priority. This initiative intends to create conditions so that the Portuguese can achieve levels of reading in which they feel fully able to deal with the written word in any circumstance of life, can interpret the information provided by the media, access to knowledge of science and enjoy the great works of literature.

991. >>See item 18 of the Report

Dir. Q. 63. Indicate whether minority and indigenous children have adequate opportunities to receive instruction in or of their native language and the steps taken to prevent lower educational standards for these children, their segregation in special classes, and their exclusion from mainstream education.

992. Several measures have been launched towards the inclusive school:

- The new legal framework represents an attempt at achieving the inclusive school, guaranteeing the quality of education, the principles, values and fundamental tools to ensure equal opportunities to all, also to students with severe and permanent impairments by defining the specialized support to give them at the different levels of education and the preparation for continuing their education path.
- One area in educational reform where there has been significant development and in which enormous progress has been made in recent years was in the important area of the Information and Communication Technologies (TIC) and the importance they have acquired in renovating and the general balancing of the whole education system. This discipline has also moved from secondary education to the seventh and eighth years of Basic Education, and its teachers have been trained with a view to the use of the TIC throughout the whole curriculum.
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993. Moreover several other inclusive measures in education for children and young people were taken:

- Creating Activities for Curricular Improvement (1st Cycle) and giving pupils access to the same, increasing the time spent at school (up to 17.30 hours) and guaranteeing full occupation of school time with replacement classes and other activities monitored by teachers should class teachers be absent. The Full Time School is planned not only as an instrument to improve learning but, above all, as a way of supporting family units in which the mother very often works.
- Combating school failure by re-launching TEIP projects - Educational Territories for Priority Intervention – that involve a wide range of measures in the school and in the

community geared to reinserting the pupil in the school. Over 35 programme-contracts were signed in TEIP schools, covering around 50,000 pupils.

- Aiming at improving equality of opportunity in the education system, several guidelines were also developed for non-mother Portuguese language in the 3rd cycle of basic education and the guidelines for Portuguese as a Foreign Language in secondary education, aiming both at the new pupils from migratory flows and other specific public schools.
- Along the same policy lines, the new legal framework for providing special care for children and young people with special educational needs, contributes towards reinforcing equality in gaining access to educational opportunities in public schools.

994. The students, whose mother language is not Portuguese, have been approached by the Ministry of Education. As an example, a survey performed in 2006 revealed that Portuguese schools enrol students coming from 120 countries, speaking 80 different languages at home.

995. The Ministry of Education has put in place an Action Plan to help support the around 80.000 non-native students enrolled in Portuguese schools, taking into account the deep change in the school population, implementing measures adequate to the specific situation of those students, aiming at contributing to their full integration in the education system. The first measure consists of the definition of a new system of equivalence of foreign certificates, to clarify, simplify and speed up the process, as well as reinforcing school autonomy.

996. Further to this, the Ministry of Education decided to implement several measures supporting students whose mother language is not Portuguese, both as Beginner and Intermediate levels. As a result, schools must offer to those students, solutions that are adequate to their progress, as fast as possible, in mastering the Portuguese language, namely:

- Use of the time allocated to Guided Study to develop activities within the scope of Portuguese as a Foreign Language. To this effect, the students concerned are organised in groups by proficiency level. In 9th Grade, time allocated to Guided Studies must be at least a 90 minute block, even if only 45 minutes are reserved for Guided Studies
- Use of the time allocated to Non-Subject Curricular Areas (Guided Study, School Project Area, Civics) to develop activities and projects within the scope of Portuguese as a Foreign Language, allowing for the study of Portuguese as a transversal matter across all subjects.
- School curriculum management, taking advantage of school autonomy, implemented through the educational project, aiming at proposing other measures specific to the diversification of the curricular offer. Grouping those students in special classes must not be included amongst those measures.
- Building recovery plans, integrating a set of activities specifically targeting teaching Portuguese as a Foreign Language. These recovery plans must be put together after diagnostic studies and be re-evaluated at the end of the 1st and 2nd terms.
- Use of a half-block (45 minutes) of study, pending decision by the school authorities, in order to offer activities within the scope of Portuguese as a Foreign Language.

997. The sociocultural mediators, mentioned ahead in article 14 of this report, have frequently been appointed by local authorities or special employment programmes to work in schools with a high level of ethnic diversity. These mediators have played an important role in the furthering of family participation in school dynamics and of intercultural dialogue.

998. Also among measures for children and young people to overcome failure and school dropout is: the *Educational Project for the Mobile School*, particularly geared to pupils who are the children of travelling workers which is a distance learning project, using a technological platform as a learning aid. It began in 2005/2006 and is geared to pupils in the 2nd and 3rd cycle of Basic Education, the children of travelling workers, and its objective is to respond to the specific needs of this community for basic education. The Curricular Plan of the Mobile School began with the disciplines of the National Curricular for the 2nd and 3rd cycle of Basic Education, with the exception of Physical

Education. This project will consistently find ways to strengthen the relationship between curricular plans and the specific needs of this group of pupils, by restructuring the curricular layout with implementation of Curricular Alternatives, based on a strong artistic component to meet the characteristics of pupils.

Dir. Q. 64. Indicate the measures taken to ensure the same admission criteria for boys and girls at all levels of education, and to raise awareness among parents, teachers and decision-makers on the value of educating girls.

999. In Portugal, girls and boys attend the educational system in equal legal circumstances and (as shown in the frames in data [Tables 83., 89. and 90., Annex](#)) at the same level as boys (The Portuguese legal system forbids discrimination, positive as well as negative, based on gender).

1000. As far as educational and vocational training of women and girls are concerned, basic education is compulsory and free for the nine first years.

Dir. Q. 65. Indicate the measures taken to reduce the drop-out rates, at the primary and secondary levels, for children and young persons, in particular girls, children from ethnic minorities, indigenous communities and poorer households, as well as migrant, refugee and internally displaced children.

1001. Several new courses in the upper secondary schools are being launched as part of the double certification paths, which correspond to both the upper secondary diploma and a level 3 vocational certificates. These vocational training courses concern students aged fifteen and more, boys and girls, and include some that are aimed at specific training in relevant issues and applications, including rural themes (animal husbandry and agriculture), as they are connected to the local reality. Along with those courses, we can also refer other training paths, such as Vocational Education and Training courses (CEF) and vocational training courses (CP), whose objective is raising the level of certification and competences of Portuguese citizens, men and women alike.

1002. According to the data (see below), there is a non-significant difference in terms of gender regarding the attendance of Professional Courses (PC) and Vocational and Training Courses (VTC).

Table 84. Annex - Attendance of Professional Courses and Vocational and Training Courses

1003. Also relevant for this issue, some of the projects above referred in item 63 of the report, like the Educational Project for the Mobile School, which was extended, in 2006/2007 to other groups, covering not only the children of travelling workers but young mothers supported by social care institution, *Ajuda de Mãe*, adolescents and pupils over the age of 15 who, for different reasons, did not complete compulsory schooling. It is also now extended to secondary level. The work of the sociocultural mediators also, above referred, has impact in children from ethnic minorities, indigenous communities and poorer households, as well as migrant, refugee and internally displaced children.

1004. The available data in the [table 88. Annex - Dropout and retention rate, according to the school year, by education level \(%\)](#), and [89. Annex - Dropout and retention rate, according to the school year and gender, by education level \(%\)](#), give a glance of the decreasing trend of the drop-out in the period concerned.

Article 14 – Free and compulsory education for all.

Dir. Q. 66 – If compulsory and free primary education is not currently enjoyed in the State party, provide information on the required plan of action for the progressive implementation, within a reasonable number of years fixed in this plan, of this right. Also

indicate any particular difficulties encountered, in the adoption and implementation of this plan of action, as well as the measures taken to overcome these difficulties

1005. Compulsory schooling is free and available for boys and girls, in Portugal (99, 07%, in 2009), wide over the whole territory. Observing data displayed in **tables 83, 85 and 86** allows us to conclude that during the reference period of this report; compulsory school attendance had very high levels. Also, it can be seen, for instances, in **table 86**, that the values concerning the attendance of student between 7 and 13 years old were never bellow 100%. That state of art leads to new priorities in public policies, which are now focused at the increasing of the attendance levels both in pre-school and upper-secondary.

1006. The 2009 OECD report Education at a Glance underlines improvements in education in Portugal, confirming the enrolment of more students in schools and improvements in education outcomes in the 2006/06 period, the time span covered by the report.

1007. At the age level of 15-19 years, for example, the ratio of students enrolled at schools in 2006/07 reached 77%, up 4% from the 73% registered in 2004/05, and reducing the gap to the OECD countries' average from 8% to 5%. At upper secondary level, graduation rates (first-time) reached 65%, up 14 percentage points from 51% in 2004/05, starting a trend to reduce the gap separating Portugal from the average observed rate in OECD countries (82%). In two years Portugal reduced that gap in 12 percentage points.

1008. The percentage of 25-34 years old Portuguese citizens with at least upper secondary education reached 44%, up from 29% at the beginning of the decade. In order to reduce the distance to the other OECD countries, in which this percentage is 79% on average, Portugal adopted significant measures to support families in the education of their children. The main measure was the extension of compulsory schooling to ages 5-18, together with reinforcing the public pre-school network and developing the upper secondary vocational path which, by itself, was responsible for improving the attractiveness of this level of education, leading to raising the number of students enrolled.

1009. Although early school leaving, defined as the students that drop out of school before the end of compulsory education, is now residual, representing less than 2% of the students at these levels of education, the number of early leavers from education and training, defined as the 18-24 year olds that leave the education system before attaining upper secondary education is still close to 35,4% (in 2008), down from 45% in 2002. Measures already taken are seen as contributing to further reduce this number. With the aim of preventing the risks of information exclusion affecting the Portuguese population, more general access is provided to the new technologies by extending broadband throughout the whole country and making areas available where *Internet* access is free to the public.

Article 15 – Participation in the cultural life

Dir. Q. 67. Provide information on the institutional infrastructure to promote popular participation in, and access to, cultural life, especially at the community level, including in rural and deprived urban areas. In this regard, indicate the measures taken to promote broad participation in, and access to, cultural goods, institutions and activities, including measures taken: (a) To ensure that access to concerts, theatre, cinema, sport events and other cultural activities is affordable for all segments of the population;

1010. Portugal created a network of cultural equipment such as public libraries, museums (there are actually 321 museums in the Country), theatres, cultural centres and polyvalent pavilions, of which the most advanced model at local collectivities' level, is the network of public libraries (of which 186 were inaugurated), aimed to lending cultural works and encouraging reading. This model of cultural intervention is being reproduced at the secondary schools level, with the network of school libraries.

1011. Public archives are also important. There are 28 public archives in the whole territory plus the central one, Torre do Tombo in Lisbon. The number of lectors in Torre do Tombo (realizing

historic research, for example) is steadily growing. In 2008 there were 20 472 lectors registered in Torre do Tombo and in the District archives of Porto and Aveiro, the number of lectors has doubled from 2000 to 2008. In the same time period the National Network of Public Libraries made available more works, in a growth of 144% of available books.

1012. Some initiatives, which may be seen as symbolic but which are emblematic are the reduction in 50% of the price of the cinema tickets on Mondays, the free access or at reduced prices to museums and exhibitions, in certain periods of the year or for specific groups of the population such as the young. Since 2004, however, at cinema, spectators and receipts are diminishing in spite of the raise in the offer. This diminution is homogeneous over all the national territory. From 2005 onwards, the number of free entrances in museums grows, surpassing the paid access (in 2008, 62% of the visits were free).

1013. The realisation of initiatives such as the *Festa da Música* at the Belém Cultural Centre, the cultural itinerances (theatral exhibitions, arts expositions) supported by the State and the local collectivities are also integrated in the kind of measures aimed at making it affordable to citizens to accede culture. The offer of cultural and educative initiatives such as *INOV Culture* promoted by the General Directorate for Arts are also integrated here. In scene arts, there is a trend to the increase in the numbers of spectators and events, along with the growth of available cultural equipments.

1014. Although, since 2005, in what concerns the Budget for Culture, the importance of culture has been decreasing, the visits to Monuments raised to 2.942.856 in 2008, the visits to museums raised to 1.218.718 in 2008. The visits to palaces raised to 1.070.819 in 2008. In the National Library (Biblioteca Nacional) the number of received lectors has diminished but the number of active lectors has increased. 2008 registered 42.453 lectors. The enlarged extension of the Public Network increased considerably the number of lectors. Thus, in 2008, there were 522.898 Public Libraries Network Cards among the public. This increase is also reflected in the number of works lent to the public, which tripled between 2000 and 2008. Still on the subject of facilitating the access of general public to the cultural works, the Portuguese Government has exempted of the payment of a special tax on the loan for use of works from public and university libraries of the National, Regional and Local Administration and schools, in accordance with the no 3 of art. 6th, of the Decree Law no 332/97, of 27th of November.

1015. The same applies to the great development of books editing, among which a great increase in the offer of translated books is to be recorded, as well as to the regular realisation of book fairs in all the country at reduced prices, as a means for encouraging reading. The growth of internet sites, portals, electronic works in the field of culture is also an aspect which favours the information and the dissemination of goods and cultural initiatives.

Dir. Q. 67. (c) To encourage participation in cultural life by children, including children from poorer families, and migrant or refugee children;

i. “Programa Escolhas” (Programme Choices)

1016. The *Programme Choices* is a governmental programme, managed and coordinated by the High Commission for Immigration and Intercultural Dialogue, which targets children and young people between the ages of 6 and 24 from disadvantaged social backgrounds, many of which are immigrant descendants and members of ethnic minorities (Roma Communities) living in vulnerable places, in order to promote their social integration.

1017. The Programme has been in existence since 2001 and is currently in its third phase, having a total budget of 25.000.000,00 Euros for the years 2007-2009. It supports projects managed by local partnerships involving schools, local authorities, Non-profit Organizations and the Commissions for the Protection of Children and Youngsters, in the areas of educational inclusion and non formal education, vocational training and employability, civic and community participation and digital inclusion.

1018. In view of its good results, the Program Choices 4th Generation (2010-2012) was already adopted by the Council of Ministers and will receive an increased budget (38 million euros) to support more projects and new priorities, such as the promotion of entrepreneurship and capacity building.

1019. >> See article 2, item 10 of the report

ii. Access to education by children belonging to minority groups

1020. The new legal framework introduced in 2004 represents an attempt at achieving inclusive schooling, guaranteeing the quality of education, the principles, values and fundamental tools to ensure equal opportunities for all, also to students with severe and permanent impairments by defining the specialized support to give them at the different levels of education and the preparation for continuation.

1021. One area in educational reform where there have been major developments and improvements has been the important area of the Information and Communication Technologies. This discipline has also moved from secondary education to the seventh and eight years of Basic Education, and teachers have been trained with a view to the use of the TIC throughout the whole curriculum.

1022. Other measures that have been taken towards reaching an inclusive education are:

- Creating Activities for Curricular Improvement (1st. Cycle) to increase the students time spent at school to improve learning but, above all, as a way of supporting family units in which the mother very often works;
- Combating school failure, increasing equality of opportunity and promoting the inclusive school by re-launching “Educational Territories for Priority Intervention” projects geared to reinserting the pupil in the school.
- Developing several guidelines for Non-Mother Tongue Portuguese in the 3rd. cycle of basic education and guidelines for Portuguese as a Foreign Language in secondary education, aiming both at the new pupils from migratory flows and other specific public schools.
- A new legal framework for providing special care for children and young people with special educational needs, on the one hand, and measures aimed at pupils who are blind, partially sighted, deaf or suffering from multi-handicaps, on the other.

iii. Mandatory classes of Portuguese as second language for children which mother tongue is not the Portuguese

1023. The question of students whose mother tongue is not Portuguese has been approached recurrently by the Ministry of Education. As an example, a survey performed in 2006 revealed that Portuguese schools enrol students coming from 120 countries, speaking 80 different languages at home.

1024. The Ministry of Education has put in place an Action Plan to help support the around 80.000 non-native students enrolled in Portuguese schools, taking into account the deep change in the school population, implementing measures adequate to the specific situation of those students, aiming at contributing to their full integration in the education system.

1025. The first measure consists of the definition of a new system of equivalence of foreign certificates, to clarify, simplify and speed up the process, as well as reinforcing school autonomy.

1026. Further to this, schools must offer to those students whose mother language is not Portuguese solutions that are adequate to their progress, as fast as possible, in mastering the Portuguese language, namely:

- Use of the time allocated to Guided Study to develop activities within the scope of

- Portuguese as a Foreign Language.
- Use of the time allocated to Non-Subject Curricular Areas (Guided Study, School Project Area, and Civics Education) to develop activities and projects within the scope of Portuguese as a Foreign Language, allowing for the study of Portuguese as a transversal matter across all subjects.
- Building recovery plans, integrating a set of activities specifically targeting teaching Portuguese as a Foreign Language.

1027. An effort aiming at adapting students whose mother tongue is not Portuguese is thus under way, with the objective of making them feel fully integrated in the school environment.

iv. Inclusive national strategy to give effect to the Convention on the Rights of the Child

1028. Since the CRC recommendation, in 2001, several efforts have been undertaken towards the definition of a national strategy for a comprehensive implementation of the Convention. In 2007, the Portuguese Government set out the INIA (Initiative for Childhood and Adolescence). This initiative entails a comprehensive approach of the rights of the child as set out by not only the Convention on the Rights of the Child, but also the Committee's Recommendations, General Comments, the World fit for Children, the World Congresses against Sexual Exploitation and the Council of Europe programme "Building an Europe for and with Children".

1029. Since its inception a broad participative method has been followed, involving the public sector, civil society, children, parents and caregivers. The coordination lies under the Deputy Secretary of State for Rehabilitation, supported by an Inter-Departmental Team for Technical Support

1030. Based on the Convention of the Rights of the Child and its main guiding principles, among the Strategic Objectives defined in INIA, we would like to highlight the following:

- Guarantee of an alternative family environment to all children deprived of parental care and favour their deinstitutionalisation.
- Reinforcement of the economic means and labour integration of families with children.
- Increase the provision of social services for children.
- Ensure the effective participation of all children in matters involving them.
- Take action on all forms of violence against children.
- Support the integration of immigrant children or ethnic minorities.

1031. The INIA 2009 - 2010 is a comprehensive action plan to defend the universality of the rights of the child supported on a global planning scheme by developing common guidelines for intervention of all agents and entities converging towards the development and socialization process of the child, from birth until adulthood.

1032. The Initiative also aims at the reinforcement of cooperation and articulation between institutions and civil society organizations responsible for and concerned with the protection of rights of the child.

Dir. Q. 67. (d) To eliminate physical, social and communication barriers preventing older persons and persons with disabilities from fully participating in cultural life;

1033. Most of the built equipments obey in their architectural project to accessibility rules, in order to allow the best access to disabled people. The Institute of Museums and Conservation, even possesses a program entitled "Accessibilities", aimed to museums, in particular the 28 museums under its supervision, where adaptation works are effected. In some of them there exists information in Braille supports for blind people. It is a measure which being progressively adopted in the private and municipal museums.

1034. RTP, the public channel of television also possesses in many informative programmes, the translation to gests language.

1035. >> See article 2 item 10 on people disabilities accessibility of the report

Dir. Q. 68. Indicate the measures taken to protect cultural diversity, promote awareness of the cultural heritage of ethnic, religious or linguistic minorities and of indigenous communities, ad create favourable conditions for them to preserve, develop, express and disseminate their identity, history, culture, language, traditions and customs.

1036. >> See article 2, item 10 of the report

1037. In recent decades Portugal has benefited from the presence of immigrants, and this new environment required the development of a policy of welcoming and integrating immigrants. The following actions and measures can be highlighted:

i. Action Plan for Immigrant Integration

1038. Portugal has set up an Action Plan for Immigrant Integration 2007-2009, with a holistic approach based on the participation of 13 different Ministries and entailing 122 specific measures. The Plan was publicly discussed and civil society – including immigrant associations – was highly mobilized. One of the priority areas of this Plan is Employment and professional training where immigrants face a particular integration challenge. The evaluation after two years shows a high rate of implementation (81%), and there will be a second and final evaluation at the end of 2009 to decide on a follow-up.

1039. Some of the measures, regarding the cultural diversity, are:

- Measure 57. General training for inter-culturality

1040. To sensitise the scientific community and universities to the need of integrating graduate and post-graduate level training components within the area of inter-culturality into the curricula of institutes of higher education and universities, namely in social sciences and humanities.

- Measure 58. To stimulate the expression of cultural diversity in all fields and activities which incorporate the area of culture

1041. To sensitise the Institute of Museums and Conservation network as well as archive networks, cine-theatres and other cultural facilities, to develop programmes, which include both historical and up to date contributions from migrant communities.

1042. To stress the importance of the socio-cultural and/or linguistic dimensions of migrant communities regarding new equipment designed for spaces specifically set aside for hosting artistic events and activities in museum areas and performance centres which are in some way connected with language.

- Measure 59. To support initiatives that promote inter-cultural dialogue and multi-culturality

1043. To promote and encourage schemes that give visibility and public expression to cultural exhibitions/demonstrations developed by migrant communities. To promote co-productions and other forms of collaboration between creators and other cultural participants, specifically in the areas of the performing and plastic arts.

ii. “Programa Escolhas” (Program Choices)

1044. >> See article 15, item 67 (c) of the Report

iii. Program Portuguese for All (PPT)

1045. This programme provides certified Portuguese Language courses free of charge (initiation and technic Portuguese). The programme is conducted by the ACIDI and has a budget for 2009/2010 of Euros 2. 893,456,20.

1046. The numbers are: Trainees 2008/2009 - 3619 migrants concerned; Trainees 2009/2010 - 5330 migrants concerned

iv. SOS Immigrant Phone line

1047. This information service was created in 2003, in a number of common migrant languages, to provide general information on immigration issues, to advise and identify emergency situations, and to offer advice in matters of immigrants' discrimination. To this day, this hot line has received a total of 329,545 calls.

v. Immigration Observatory

1048. Among its various activities, the ACIDI has dedicated particular attention to the conception, implementation and evaluation of public immigration policies, in cooperation with academia and research centers through its Immigration Observatory. It was created in 2003 according to the philosophy "getting to know more so as to act better", the Observatory has stimulated dialogue between academia and political decision-makers in relation to the proposal, discussion and evaluation of public policies in the area of the integration of immigrants in Portugal.

vi. Pilot Project "Promoting Immigrant Entrepreneurship"

1049. A very interesting and recent initiative by the ACIDI is the pilot project on "Promoting Immigrant Entrepreneurship". This project aims to assist potential immigrant entrepreneurs in developing their business ideas, by providing training and customized support for the development of their business projects.

1050. The Project is providing training to 10 local groups of immigrants (in all, about 120 people) who have shown interest in setting up their own business, and will support their implementation. So far, 30 persons completed their training successfully, 15 business plans applied for funding and 3 businesses have already been formally established.

vii. Encouraging social responsibility of employers and workers in the integration of Portuguese migrant workers in their working environment

1051. Another recent and innovative initiative in this area has been the set up by the ACIDI of a Working Group on Corporate Social Responsibility (CSR), which first met in April of this year. With the participation of private companies, trade unions, employers associations, local authorities and public entities, this group is one effort more to ensure effective integration of immigrants in the labor market.

viii. National Centers and Local Immigrant Support (CNAI).

1052. The National Centers and Local Immigrant Support are services that provide information and support to immigrants, bringing together various partners including Ministries, institutions and public services. There are currently three National Center (Lisbon, Oporto and Faro) with a total of 300 thousand visits between October 2008 and October 2009.

ix. Local Immigrant Support for Integration of Immigrants (CLAII)

1053. CLAII is welcoming spaces, providing decentralized information, supporting and responding to the problems of immigrants. The refereed Centres work in logic of proximity and

networking, particularly in close link with the National Immigrant and in partnership with municipalities and civil society, covering almost the entire territory (87 in all country).

1054. >> See article 3, item 10 of the report

x. Project "Intercultural Mediation in the Public Services"

1055. This is a pilot project developed under the European Fund for the Integration of Third Countries, coordinated by the ACIDI. With this project, ACIDI is responsible for public policies to host and support the integration of immigrants, promote the integrating of cultural diversity in public services of the public administration, asserting the principle of interculturalism, as a pillar of social cohesion. Contributing to the main objective, the referred project placed 28 players on intercultural mediation, in 25 public services, regarding the assistance to immigrants. The public services involved, identified and contacted by the partner organizations, are mostly health care (13) and municipal services (7). Despite that, there were also mediators placed in the following areas: public security police, social security, housing, employment, and education. An estimated 14,000 people benefited and it had an estimated total costs in 2009 of €433,914.88.

Dir. Q. 69. Provide information on school and professional education in the field of culture and the arts.

1056. The Roadmap for Arts Education was drafted based on the deliberations undertaken during and following the World Conference on Arts Education (6-9 March 2006, Lisbon, Portugal), and is aimed to explore the role of Arts Education in meeting the need for creativity and cultural awareness in the twenty-first century.

1057. The Roadmap was especially designed to promote a common understanding among all stakeholders of the essential role of Arts Education, and is meant to serve as a reference document outlining concrete changes as well as measures required to effectively implement Arts Education in different learning environments.

1058. Following the Roadmap, the Government developed favourable policies on Arts Education providing a better access to Artistic issues within all levels of the educational system. Furthermore, Specialised Artistic Education (SAE) is a form of training at secondary level and is planned from the dual perspective of entering the working world and the pursuit of further studies. Dual certification is awarded on completing an SAE course, in the form of a diploma for completing secondary level education and a level 3 vocational qualification certificate.

1059. Depending on areas, the SAE is structured on basic education (2nd. and 3rd. cycles) for Dance and Music, which should be taught at an early age and in sequence, and is completed in secondary education; or it is begun and completed at secondary level in the Visual and Audiovisual Arts and Theatre, where early learning is not essential.

1060. SAE courses may be administered by the network of public, private and cooperative schools.

1061. Specialised Artistic Education is a form of training at secondary level and is planned from the dual perspective of entering the labour market and the pursuit of further studies.

1062. >>See article 15, item 62 of the report

Dir. Q. 71. Measures taken to ensure the effective protection of the moral and material interests of creators, in particular (a) To protect the right of authors to be recognized as the creators and for the protection of the integrity of their scientific, literary and artistic

productions; (b) To protect the basic material interests of authors resulting from their productions, which enable them to enjoy an adequate standard of living; (c) To ensure the protection of the moral and material interests of indigenous peoples relating to their cultural heritage and traditional knowledge; and (d) To strike an adequate balance between the effective protection of the moral and material interests of authors and the State party's obligations in relation to the other rights recognized in the Covenant.

1063. Article 75 of the Code of the Authors' Right, while the rights of the Author are defended in the Code in the sense that he shall not be deprived of hers/his intellectual property over the arts work establishes many exceptions to the absolute protection of the Authors' right allowing the art work to be known and its content to be disseminated.

1064. Paragraph one of this article allows the temporary reproduction inside a technological process without commercial aims.

1065. Paragraph two foresees a wide list of exceptions to the absolute sense of the Authors' right such as the private reproduction of the work for particular use and without commerce purposes, the dissemination of news, the reproduction of fragments of arts works when justified by the information finality which lays at the heart of their reproduction; the reproduction of an arts work previously made available to the general public since this reproduction is made by a non profit science or knowledge institution without profit aims; the reproduction of an arts work for education purposes without profit aim; the insertion of quotations or summaries of others' works, whatever their gender and nature, in support of somebody's own doctrines or with criticizing, discussion or teaching purposes, in the measure which shall be deemed justified by the goal to attain; the inclusion of short pieces or fragments of others' works in owns works addressed to teaching; the reproduction for disabled people of a work which is directly related with the disability without profiting aims; the execution and public communication of hymns and patriotic songs which are officially adopted and of exclusively religious works during the acts of cult or the religious practices; the use of the work in relation with the publicity which shall be made to an event which shall consist in the public exhibition of the art work for its sale or not but without any other commercial purpose. [Article 75, § 2, a) to t)]

1066. These exceptions to the Authors' right are numerous and justified and realize a correct balance between the interests of the creator and the interests of the public. Article 75 of the Author's right and connected rights code reproduces, in an approximate way, the optional list of exceptions contained in article 5 of the EC Directive on the Author's right in the information society (Directive 2001/29/EC, dated 22nd May). This list foresees a significant number of limit cases and exceptions to the Author's right, grounded on the protection of relevant social, cultural, educational and information interests which, in this sense prevail over the exclusivity recognized to the rights' owners. In the EU, only Luxemburg opted for the integration of a so extensive list, as the Portuguese. In the international field, in the major Conventions and Treaties (Bern Convention, WTO TRIPS and OMPI internet treaties) general rules are adopted, but not exhaustive lists. In the Anglo-Saxon countries, fair use and fair dealing general clauses which are fulfilled by jurisprudence are in force. The European list is one of the most generous world lists of exceptions to the exclusive Author's right.

1067. Law no 50/2004, of 24th August, approved the Portuguese Copyright Code.

Dir. Q. 73. Indicate the measures taken for the conservation, development and diffusion of science and culture and to encourage and develop international contacts and cooperation in the scientific and cultural fields.

1068. Portugal keeps celebrating cultural cooperation agreements with other countries, and promoting cultural demonstrations under such Agreements.

1069. On this particular matter special mention should be given to the development of cultural cooperation programs in the context of the Community of the Countries of Portuguese Language (CPLP), including diverse sectors and cultural initiatives.

1070. >> See article 2, item 9 of the report.

GLOSSARY

ACES - Groups of Health Centres
ACIDI - High Commission for Immigration and Intercultural Dialogue
ANF - the National Association of Pharmacies
ANQ - National Qualification Agency
ARH - River Basin District Administrations
AWC – Authority for Working Conditions
CAFAP - Centre for Family Support and Parental Counselling
CAP - Common Agricultural Policy
CAPS - The Public Health Purchasing Catalogue
CAS - The Health Reception Centre
CED - Highly Differentiated Centres
CEF - Education and Training Courses
CES - Center for Social Studies
CET - Technological Specialization Courses
CIG –Commission for Citizenship and Gender Equality
CITE - Commission for Equality in Work and Employment
CLAII - Network of Local Immigrant Support Centres
CLDS - Local Contracts for Social Development
CNAI - National Immigrant Support Centres
CNASTI - National Confederation for Action on Child Labor
CNLCS - the National Commission for the Fight Against AIDS
CNO - New Opportunities Centers
CPR - Constitution of the Portuguese Republic
CSI - Solidarity Supplement for the Elderly
CVP - Portuguese Red Cross
DDO - The National System for Survey of Mandatory Declaration Diseases
DGPI - The Directorate-General for Justice Policy
DGS - General Directorate for Health
EFA - Adult Education and Training Courses
ENDS - the National Strategy for the Sustainable Development
ERSAR - Regulatory Entity for Water and Waste Services
ESC - Economic and Social Council
GAE- Employment Support Office for immigrants
GIMAE - Extended Commission and an Executive Centre
GNR - National Republican Guard

IAS - Social Support Index
IDT - The Institute on Drugs and Drug Addiction
IEFP - Employment and Vocational Training Institute
IHRU - Institute for Housing and Urban Rehabilitation
INAG-Water Institute
INE - National Statistics Institute
INR - National Institute for the Rehabilitation
IPAD –Portuguese Institute for Development Support
IPJ - Portuguese Youth Institute
ISS - Social Security Institute
ISS - Social Security Institute
LC – Labour Code
LTU - Long Term Unemployment
ME - Ministry of Education
MIS -Monitoring and Information System
MJ - Ministry of Justice
MTSS - Ministry for Labour and Social Solidarity
NAE - Entrepreneurship Support Centre
NPISA - Homelessness Local Planning and Intervention Centres
NSRF - National Strategic Reference Framework
OHRU - Observatory of Housing and Urban Regeneration
PAD - Portuguese Aid to Development
PAIES - Programme to Support Investment in Social Facilities
PARES - Programme to Support the Extension of Social Facilities
PCHIS - Housing Comfort Programme for the Elderly
PCTH - The ‘Timely Appointment’ Programme
PCTH - Timely Appointment’ Programme
PEAASAR - The Strategic Plan for Water Supply and Wastewater Services
PER - Special Re-Housing Programme
PES - Public Employment Service
PETI - Plan for the Elimination of Child Labor
PETI - Plan on the Prevention and Elimination of Child Labor
PIDDAC - Program of Investments and Expenditures of Development of the Central Administration
PIEF - Integrated Education and Training Programme
PIF - Program of Focused Intervention
PIO - Ophthalmological Intervention Programme
PLCS - Labour Platform Against AIDS
PLCS - The Labour Platform against AIDS

PNAH - the National Hospital Accreditation Programme
PNAI - The National Action Plan for Inclusion
PNAI - The National Action Plan for Inclusion
PNAP - National Action Plan for Prevention
PNESST - National Plan for Occupational Health and Safety Education
PNPCDNT - National Programmes for the Prevention and Control of Non-Transmissible Diseases
PNPCDO - The National Programme for the Prevention and Control of Oncological Diseases
PNPCDO - the National Programme for the Prevention and Control of Oncological Diseases
PNPCI - the National Infection Prevention and Control Programme
PNQCS - the National Health Centre Qualification Programme
PNS - National Health Plan
PNSR - the National Reproductive Health Programme
PNUEA - National Plan for the Efficient Use of Water
POEFDS - Operational Program for Employment, Training and Social Development
PON - The National Oncological Plan
PON - the National Oncological Plan
POPH - Operational Human Potential Programme
PORI - The Operational Plan of Integrated Responses
PORLVT - Lisboa and Vale do Tejo Region Operational Programme
Professional Courses (PC)
PROGRIDE - Programme for Inclusion and Development
PSO - The Occupational Health Programme
PSP - Public Security Police
PSP - Public Security Police
PVE - The Life –Employment Programme
RCP - Public Capitalization Scheme
RNCCI - The National Network for Continued and Integrated Care
RNCCI - the National Network of Integrated Continuous Care
RNCCISM - National Network of Integrated Continuous Mental Healthcare
RPC - Public Capitalization Scheme
RSI - Integration Social Income
RVCC - Competence Recognition, Validation and Certification Processes
RVCC - Recognition, Validation and Certification of Competence
SAE - Specialised Artistic Education
SEF - Borders and Aliens Service
SIGLIC - The Integrated System for Managing the List of Persons Registered for Surgery
SIGLIC - the List of Persons Registered for Surgery
SLSM - the Local Mental Health Services

SNS - National Health Policy
SOLARH - Program of Solidarity and Support for Recovery Housing
TEIP - Educational Territories for Priority Intervention
TIC - Information and Communication Technologies
TSC - Technological Specialisation Courses
U/ESMC - Community Mental Health Units or Teams
UMCCI - Mission Unit for Integrated Continuous Care
UMCCI - the Mission Unit for Integrated Continuous Care
UNIVA - Active life Insertion Unit
USF - Family Health Units
USF - The Family Health Units
Vocational and Training Courses (VTC).
Vocational Education and Training courses (CEF)
Vocational training courses (CP)