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EUROPEAN SOCIAL CHARTER

10th National Report on the implementation of the European Social Charter

submitted by

THE GOVERNMENT OF PORTUGAL

- Follow up of Collective Complaints 60/2010 and 61/2010
- Complementary information on Articles 11§2 and 14§1 (Conclusions 2013)

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CYCLE 2015

Response from Portugal to the conclusions of the European Committee of Social Rights of the Council of Europe

Part 1 – Responses to the conclusions of non-conformity

Article 3 §3

The Committee also notes that incidence rates for occupational accidents and especially fatal accidents have considerably decreased since the previous reference period. The trend continued during the reference period. It considers, however, that the overall level of occupational accidents is still too high in comparison with the average rates in the EU-27 for the right to safe and healthy working conditions to be secured. It therefore reiterates its conclusion of non-conformity.

The Committee concludes that the situation in Portugal is not in conformity with Article 3§3 of the Charter on the ground that measures to reduce the excessive rate of fatal accidents are inadequate.

The indication that Portugal shows a negative deviation from the average rates in the EU-27 concerning occupational accidents requires an analysis at the national level.

The reported data arise from a context of economic crisis in which there is mobility of workers engaged in activities carried out in other economic sectors, different from the ones they are used to and, at the same time, they are related to a possible relief of business investment in occupational safety and health services due the current economic difficulties in the country.

Although during the reference period 2008/2011, the Working Conditions Authority (ACT) has systematically focused on a strategy aimed to reduce work-related accidents, as pointed out in the respective activity plans[1] and reports and in pages 1 to 19 of the 8th Report submitted by Portugal, it is necessary to increase and continue with the actions taken by the ACT, involve other bodies and create response capacities and resources complementary to the national strategy of safety and health at work.

In order to achieve this, the ACT aims to strengthen the inclusion of occupational safety and health issues in education systems from basic to university education and vocational education, by supporting the training of teachers and the preparation of information content and teaching materials.

This non-conformity conclusion is taken on the basis of an average rate. However, there is no reference standard or any other type of reference to ascertain the rate of work-related accidents considered acceptable, although the ultimate goal of occupational safety and health is the "Zero Rate" of work-related accidents.

[1] http://www.act.gov.pt/(pt-PT)/SobreACT/DocumentosOrientadores/Paginas/default.aspx

Article 11 §2

The Committee concludes that the situation in Portugal is not in conformity with Article 11§2 of the Charter on the grounds that it has not been established that prevention through screening is used as a contribution to the health of the population.

The Portuguese National Health Service makes regular population-based screenings in the areas of diabetes and cancer.

Diabetes

The National Programme for the Prevention and Control of Diabetes is running in Portugal since 1970s and it has been updated and revised several times; therefore, it is one of the oldest national public health programmes. According to the 2013 Report of the National Diabetes Observatory, in 2012, the prevalence of diabetes in the Portuguese population aged 20-79 was of 12,9% (7,8 million people), which corresponds to an estimated number of 1 million people. The impact of ageing in the Portuguese population age structure (20-79 years) led to an increase of 1.2 p.p. in the prevalence rate of diabetes between 2009 and 2012.

The intervention strategies in the current National Diabetes Programme are based on three types of diabetes prevention: the primary prevention, through the reduction of the known risk factors that may change the disease aetiology; the secondary prevention, through early diagnosis and adequate treatment according to the equity principle; and the tertiary prevention, through patients' rehabilitation and social reintegration and quality care provided to the person with diabetes. One of the Programme's specific goals is "to ensure regular screenings for diabetic retinopathy, diabetic foot and diabetic nephropathy." In mainland Portugal, five Regional Health Administrations are responsible for the population screenings.

Table 1
Retinal images taken within the scope of Diabetic Retinopathy Screening Programmes

Regional Health Administration (ARS)	Retinal images performed				People identified for treatment in 2012 (*)	
	2009	2010	2011	2012	No.	%
ARS of Northern Region	791	8 839	39 006	49 354	1 816	3,7%
ARS of Central Region	14 766	15 271	15 258	18 496	770	4,2%
ARS of Lisbon and Vale do Tejo	3 131	13 867	23 221	24 819	2 658	10,7%
ARS of Alentejo	n.a.	2 761	2 872	2 512	35	1,4%
ARS of Algarve	10 907	9 395	13 580	7 937	736	9,3%

Total	29 595	50 133	94 151	103 118	6 015	5,8%

Sources: ARS of Northern Region; ARS of Central Region; ARS of Lisbon and Vale do Tejo – Data from APDP (Portuguese Diabetes Association); ARS of Alentejo; ARS of Algarve (*) The number of people identified for treatment may be under-represented in comparison with the number of retinal images performed. This is due to delays in the reading of the exams.

Cancer

In Portugal, cancer is the main death cause before age 70 (i.e., the main cause of premature death) and it is the second leading cause of death in all age groups, after the cerebrovascular diseases. In this context, the secondary prevention, based on early diagnosis and prompt treatment provision, requires the organization of effective screening tests, and people's access to the screenings must be guaranteed with full respect for the equity principle.

In the last decade, there was significant progress in the prevention and treatment of cancer in Portugal. Programmes to combat waiting lists for surgery were implemented and lead to a significant reduction of the same. The creation of new radiotherapy units and the renovation of existing ones also brought significant improvements in this area. However, in Portugal, population-based screenings are made on a regional basis, thus, their frequency is very variable.

One of the goals of the National Programme for Cancer Diseases is to continue with the implementation of the Council Recommendation (2003/878/EC) and conduct cervical cancer screenings with cervical cytology aimed at women aged 30-60, breast cancer screenings with mammography, every two years, aimed at women aged 50-69, and colorectal cancer screenings with faecal occult blood test aimed at the population aged 50-74.

With the publication of Order no. 4803/2013 of 8 April, population-based screening programmes of cancer diseases (colon and rectum, cervix and breast) are to be periodically monitored. The standardization of monitoring indicators (the same for all the Regional Health Administrations - ARS) and the follow-up of the screening programmes' evolution will allow real-time monitoring of the situation at the national level.

Table 2
Geographic coverage of the population-based cancer screening tests, per Regional Health Authority (ARS) (%), in 2012

Screenings	ARS of the Northern Region	ARS of the Central Region	ARS of Lisbon and Vale do Tejo	ARS of Alentejo	ARS of Algarve
Breast Cancer	73	100	Residual	100	100

Cervical Cancer	47	100	Residual	100	81
Cancer of the Colon and Rectum	0	Pilot	0	Residual	0

Source: Regional Health Administrations (ARS)

During its implementation years, the National Programme for the Promotion of Oral Health has provided the access of several target groups to oral health care. Currently, this Programme covers children aged 3-16, pregnant women assisted in the National Health Service, beneficiaries of the solidarity supplement for the elderly and users of the National Health Service infected with HIV/ AIDS.

In Portugal, there are high incidence rates of oral cancer with low levels of survival often due to delayed diagnosis.

With the publication of Order no. 686/2014 of 15 January, the Programme was extended to include early intervention in oral cancer, with the following goals:

- To increase the survival rate for oral cancer at 5 years after the oral cancer diagnosis of persons belonging to the highest risk group covered by this project, thus exceeding the current value in 5 percentage points, by taking the European average as reference;
- To use efficiently all the installed capacity in public and/or private services to make the differential diagnosis of malignant or potentially malignant lesions of the oral cavity and provide for an early therapeutic intervention within the shortest time possible.

In Portugal, the standardized oral cancer incidence rate in men is four times higher than the one observed in women (12.7 to 3.1 per 100.000 people in 2005), with about 1000 new cases/year and 500 deaths. After the diagnosis, only 40% of the patients survive the disease for more than 5 years (in the specific case of men this percentage decreases to 36%), whereas in the European Union 47% of the people affected by this disease survive beyond the mentioned period (Eur J Cancer 2009, 45: 931-991).

Early intervention in oral cancer is initiated by the family doctor, following two possible situations:

- Opportunistic screening of high-risk users (that must be done every two years);
- Clinical diagnosis of malignant or potentially malignant lesions following the user's complaint or observation, or referred by the stomatologist or dentist.

The target population of this intervention is as follows:

- Users belonging to the risk group: male smokers aged 40 or over and with drinking habits.
- Users whose lesions in the oral cavity are identified by their complaint or by the family doctor's observation.
- Users with complaints of pain, lesions, change of colour or changes in the oral mucosa surface, unusual volume increasing of the oral cavity structures or upper respiratory tract, oral or perioral paresthesia.

When a suspicious lesion is detected, it is subject to differential diagnosis procedures, namely the biopsy; then, a diagnosis referral note is issued through the IT system to a duly qualified physician of the National Health Service. The reference laboratory makes the analysis and sends the results through the IT system to the family doctor and to

the physician of the National Health Service, and makes the HPV test, whenever there is a positive result.

When there is a malignant histological diagnosis, the reference laboratory reports it through the IT system to the Portuguese Institute of Oncology of the patient's residence area, which schedules an urgent consultation for that patient.

The diagnosis-note value is €15 and the biopsy-note value is €50. The number of notes to be issued per user within the scope of early intervention for oral cancer is of 2 diagnosis-notes and 2 biopsy-notes per year.

Article 12 §1

The Committee concludes that the situation in Portugal is not in conformity with Article 12§1 of the Charter on the ground that the minimum level of sickness benefit is manifestly inadequate.

Between 2011 and 2014, Portugal was covered by the Economic and Financial Assistance Programme, and has committed itself to implement a set of budgetary measures featured by the need to reduce public expenditure, including expenditure on social protection. In this context, it was not possible to envisage any approach aimed to make changes in terms of the minimum level of sickness benefit inadequacy.

The described situation occurs in two situations:

- People doing part-time work (less than 50% of full-time working hours) and earning the minimum wage.
- When the insurance period is not long enough to make a full calculation of the benefit and it has to be done on the basis of insurance periods' aggregation. In these cases, the contribution periods for the system are very short and earnings are low. In order to minimize this situation, article 18(2) of Decree-Law no. 28/2004 was amended by Decree-Law no. 133/2012 of 27 June and, with this amendment, situations in which the minimum level is granted became almost non-existent.

The number of beneficiaries receiving the minimum level of sickness benefit has decreased, as it may be seen in the following table:

Table 3
Number of beneficiaries receiving less than €419

	<= €419	%	Total of beneficiaries
2010	6.484	1,3	517.099
2011	6.557	1,3	523.194
2012	4.282	0,9	475.013

2013	4.010	0,9	454.729
2014	2.993	0,8	381.618

Source: The Social Security Institute (ISS)

It is also important to underline that the social security system, through its solidarity subsystem, foresees the provision of social or economic compensation when the welfare system benefits are inadequate. More specifically, it provides for the payment of the social integration income (RSI); also, through its social action subsystem, the social security system foresees the provision of exceptional short-term benefits of limited amount to cover situations of need and inequality, which may ensure an increase of income, thus provide for a more adequate benefit amount.

Article 12 §4

The Committee concludes that the situation in Portugal is not in conformity with Article 12§4 of the Charter on the grounds that:

- *equal treatment with regard to social security rights is not guaranteed to nationals of all other States Parties;*
- *equal treatment with regard to access to family allowances is not guaranteed to nationals of all other States Parties.*

Although there are no bilateral social security agreements concluded with all the other States Parties, the principle of equal treatment with regard to social security rights is guaranteed to national and foreign citizens, provided that they have legal residence in the country.

The exceptions occur in some non-contributory benefits, such as the social pension, the social integration income and the solidarity supplement for the elderly; this fact does not prevent us from expressing reservations about the Committee's conclusion.

Similarly, the principle of equal treatment with regard to family allowances' granting in Portugal is guaranteed to foreign citizens legally resident in the country; therefore, we have some reservations about the Committee's conclusion, although there are no bilateral agreements concluded with all the States Parties mentioned.

However, Portugal and Turkey have signed an agreement that covers social security, establishing the principle of equal treatment with regard to workers in both countries in the access to family allowances.

The social support benefits provided for in Article 13 of the European Social Charter are granted within the scope of the non-contributory scheme, namely the Social Integration Income (RSI), the social Pension and the Social Solidarity Supplement for the Elderly (CSI).

In fact, there are differentiating rules in the RSI, Social Pension and CSI granting, according to the beneficiaries' nationality, residence and reciprocal treatment.

Therefore, the Social Integration Income (RSI) is granted to national and foreign citizens from the EU, EEA and Switzerland (third State with an Agreement on the free movement of persons within the EU) who are legally resident in Portugal for at least one year. Citizens of other countries must have legal residence in Portugal for at least three years (exception made to children aged less than three years).

In what regards the social pension, it is awarded to national and foreign citizens resident in Portugal, covered by EU regulations on social security (Member-States of the EU, EEA and Switzerland) or by bilateral agreements on social security, concluded with Portugal, that foresee the social pension granting (Cape Verde, Canada, Australia and Brazil).

Finally, the Social Solidarity Supplement for the Elderly (CSI) is granted to national or foreign beneficiaries of old-age and survivors' pensions or similar pensions of any national or foreign social security system, provided that they have legal residence in Portugal for at least six years and fulfil other conditions for this benefit granting.

There are situations where the national and foreign citizens covered by EU regulations on social security (Member-States of the EU, EEA and Switzerland) are entitled to the CSI when they do not fulfil the means-testing condition for the social pension granting and there are situations where foreign citizens, who are not covered by the social pension personal scope on the grounds of nationality, are also not entitled to the CSI.

The existence of differentiated treatment in the social pension, CSI and RSI granting to citizens of countries outside the EU, EEA or third States with an Agreement on the free movement of persons within the EU, is due to the non-contributory nature of these social benefits and to the legislator's will to prevent unwanted social behaviours towards the social security system, such as the attraction of immigrant beneficiaries without stable ties with the country.

In any case, it should be noted that, according to the national social security system logic, Portugal guarantees social protection in economic need situations through the RSI granting to all citizens legally resident in the country, regardless of their nationality, requiring only, by virtue of the differentiating criterion of residence duration, that the foreign beneficiaries' ties with the country are stable and not of an adventitious nature.

It is also important to mention that the national authorities are making exploratory contacts and arrangements with the Russian Federation and Turkey, with a view to the eventual establishment of bilateral agreements. However, we highlight that the number of nationals from these countries residing in Portugal is not very significant as they have very small communities here.

Nevertheless, taking into account the countries mentioned – Albania, Armenia, Georgia, Serbia, Russian Federation and Turkey, it should be stressed that the first four countries, the number of citizens in Portugal is not significant. According to the Portuguese Immigration and Borders Service (SEF), in 2013, there were 33 citizens from Albania, 81 from Armenia, 902 from Georgia, and 213 from Serbia. Portugal has been having bilateral contacts to start negotiations with Russian Federation and Turkey for a Bilateral Agreement on Social Security.

Article 13 §1

I. First ground of non-conformity

Concerning the first ground of non-conformity related to the level of social assistance that is manifestly inadequate, it should be mentioned that as a general rule, social assistance is provided to persons who are not covered by a contributory scheme. Also, the benefits are only paid to persons, who are resident in Portugal and are in financial difficulties, i.e. whose income is below a certain level.

In the general system, all legal residents (at least three years of residence in certain cases) who are over 18 years of age (persons under that age may be entitled if they have children depending on their household, are married or cohabitating, or pregnant) and are in a situation of socio-economic need (which also implies not owning movable or other assets whose value exceeds a certain amount related to the indexing reference of social support (*indexante dos apoios sociais, IAS*) may be granted a social integration income (*rendimento social de inserção*).

However there are special non-contributory benefits. Under certain conditions, persons not entitled to contributory benefits may be entitled to a non-contributory pension. It may be provided as an invalidity or old-age social pension, widow(er)'s pension and orphan's pension (pensão social de invalidez e de velhice, pensão de viuvez, e pensão de orfandade).

Social pension may be paid to persons of 65 years or older and to permanently disabled persons over the age of 18, regardless of their occupation. Persons receiving old-age or invalidity pension are also entitled to an extraordinary solidarity supplement (*complemento extraordinário de solidariedade*), a top-up benefit of an amount that varies depending on whether the person is over or under the age of 70.

Residents who are not covered by a mandatory social protection system or who are covered but not under the contingencies of maternity, paternity and adoption, may be eligible for social allowances in the framework of maternity, paternity and adoption protection *(subsídios sociais de protecção na parentalidade).*

Unemployed persons not entitled to unemployment benefit may be entitled to unemployment assistance (subsídio *social de desemprego),* provided they fulfil the conditions as regards income and movable assets.

Pensioners aged 65 years or over may be entitled to a solidarity supplement for the elderly *(complemento solidário para idosos).* They must reside in Portugal for at least six years prior to the right being granted and their annual income must be lower than a certain limit.

Pensioners whose income is below the guaranteed minimum retribution (*Retribuição Mínima Mensal Garantida*) of the previous year, or below the indexing reference of social support (*indexante dos apoios sociais, IAS*) when the latter exceeds the guaranteed minimum retribution, are exempted from co-payments for healthcare and they benefit from an increased contribution by the State towards the price of medicines.

Additional measures taken

Nevertheless the efforts and progresses made at the social protection system level, in general, and in social assistance support, in particular, in order to lessen the impacts caused by the deep economic and financial crisis that Portugal is facing, the crisis effects are being reflected in the various sectors of society, aggravated by the commitments undertaken within the framework of the *Memorandum of Understanding between EU, IMF and ECB* that led to the public expenditure restraint, with direct impacts on the social protection system.

Portugal has been taking in the recent years a set of measures with impact on the reduction of monetary poverty and deprivation levels of the most vulnerable households, such as families with children, particularly the ones exposed to unemployment, large families, households with unemployed working age adults, elderly people, and specific groups such as people with disabilities, immigrants, Roma communities and other ethnic minorities, the homeless, among others, who have lower income, more fragile informal support networks and/or increased difficulties in the access and integration in the labour market and/or in socially useful activities.

Alongside with other measures already mentioned in our national report, such as the Social Integration Income, the Solidarity Supplement for the Elderly and other social benefits, there are several new measures in place. We highlight in the first hand, the Personal Income Tax (IRS) exemption from social security benefits, which can be an important safeguard measure for the most vulnerable families, the increase in 10% of the unemployment benefit for couples with dependent children, as well as the updating of the minimum amounts of rural and social pensions, covering about one million and one hundred thousand Portuguese who, consequently, have seen their purchasing power increase, progressively, since 2011.

It is also important to underline the following measures: creation of social tariffs in the transport sector and in the price of electricity and natural gas supply services; the energy social discounts, including an Extraordinary Social Support to the Energy Consumer, a Social Tariff for Gas and a Social Tariff for Electricity, which are cumulative, and the development of the Social Rental Market – carried out within the scope of a partnership between the State, municipalities and banks - promoting the house renting at prices below the market values (rents up to 30% below the values usually practiced in the free market).

In this context, it is also important to mention the Protocol for the creation of a Bank of Medicines, which will allow the access of the most vulnerable population to medicines, under more favourable conditions. It should be underlined that in what concerns the access to health care, the exemption from user fees payment has been extended to more than 5 and a half million people.

Also noteworthy is the strengthening of the Emergency Food Programme (*Programa de Emergência Alimentar*) included in the Social Canteens Solidarity Network (*Rede Solidária de Cantinas Sociais*), which ensures the access to daily meals to the people and/or families who need it most. In 2011, there were 62 social canteens. At the end of 2013, there were already 811 social canteens that served more than 14 million meals during that year, with a total of about 49.150 meals served per day.

Social protection measures were also been created and are being implemented in case of self-employed persons and self-employed persons with a business activity, protecting these categories, in case of unemployment.

According with social security budget 2012, the expenditure made in that year amounted to € 1.611.667 million. This expense includes: a) social services and equipment; b) Poverty and social exclusion Programs; c) Cash benefits in any capacity d) benefits in kind. We had an increase of expenditure of 5.8% from 2008 to 2012.

II - Second ground of non-conformity

Concerning the second ground of non-conformity, there is not new additional information. Portugal ask a length of prior residence in what concerns social assistance benefits to nationals of other States Parties, other than EU/EEA nationals. In the case mentioned, say, the Social integration Income, Portugal ask at least three years of residence.

Social integration income is a cash benefit provided together with an integration contract. Its aim is to ensure that individuals and their family members have sufficient resources to cover their basic needs, while promoting their gradual social and professional integration.

The beneficiary must be willing to apply for other benefits to which he or she may be entitled, to recover any outstanding debts and to assert the right to alimony pension.

Social integration income corresponds to the difference between the theoretical amount of the social integration income in relation to the number of family members and the entire family income. Hence, it is paid as a differential amount.

The theoretical amount is indexed to the indexing reference of social support (*indexante dos apoios sociais, IAS*). It is calculated as 100% of the IAS for the entitled person, 50% for each adult, and 30% for each minor.

Social integration income can be combined with other social security benefits, such as a long-term care supplement (*complemento por dependência*), a solidarity supplement for the elderly and an allowance for assistance by a third party (*subsídio por assistência de terceira pessoa*).

Social integration income is granted for 12 months. It may be renewed upon request of the beneficiary and presentation of the supporting documents.

Article 14 §1

The Committee concludes that the situation in Portugal is not in conformity with Article 14§1 of the Charter on the grounds that it has not been established that:

- *there is an adequate number of staff providing social services;*
- *social services staff have sufficient qualifications.*

The Committee's conclusion in what concerns the staff working in social services cannot be accepted by Portugal.

The number of human resources and their academic and training requirements are provided for in legislation and regulations in force, which are applicable at the level of the social responses' operation, registration and licensing, where it is ensured the users' safety and the quality of services provided.

This legislation defines the profile and qualification of the technical director and the categories and ratios of professionals necessary to meet the needs of a defined number of users for each of the social responses covered. Each social response has its own legislation where all this is defined, taking into account the number of users that each service can attend to.

The Social Security Institute competent services have the responsibility to ensure that the ratios established in the legislation are completely fulfilled, either in terms of cooperation agreements concluded with solidarity sector institutions, or in terms of operating licenses granted to profit-oriented private entities.

The regular evaluation of both the number of staff belonging to the technical teams and the hired staff qualifications is ensured by teams responsible for the technical monitoring of the profit-oriented institutions and facilities. These teams are: the teams belonging to the District Services' Cooperation and Social Responses Units and the Inspection Department teams.

It should also be mentioned that the Social Security Institute does not have statistic data on this point. There is an IT platform that allows the registration of cooperation agreements and licensed establishments, called SISS-COOP. In this platform, we can insert a reasonable set of variables concerning the established agreements, their users, cost-sharing and the automatic processing of the users attendance, whose variation is subject to financial adjustments.

Although it may be possible to make a description of the staff covered by each agreement or working in each licensed establishment, it is not yet compulsory to do this because there are some constraints in the platform. The solving of this situation depends on established priorities and available budgets and on other constraints of institutional nature. However, the absence of data does not mean that the established conditions are not being fulfilled.

It is also important to underline that the cooperation agreements established between the State and institutions are only signed after being confirmed that the condition of adequate number of staff according to the legislation in force is completely fulfilled. The same applies to the licensing procedure of private facilities that are only entitled to an operating license after fulfilling the conditions established by law.

The conditions established by the Portuguese law are regulated by existing European guidelines. The Social Security Institute develops mechanisms for the regular evaluation of both the number of staff belonging to the technical teams and the hired staff qualifications.

Article 23

The Committee concludes that the situation in Portugal is not in conformity with Article 23 of the Charter on the grounds that no anti discrimination legislation exists protecting elderly persons against discrimination on grounds of age outside the employment sphere.

In fact, in the Portuguese legislation concerning anti discrimination the "Age" criterion is not included in the list of illegitimate discrimination factors stated in Article 13 of the Portuguese Republic Constitution (CRP), which establishes that all citizens have the same social dignity and are considered equal before the law.

However, it is important to clarify that this list is purely exemplary; although the "age" criterion is not included in the list, in accordance with Article 26(1) of the Portuguese Republic Constitution, the anti discrimination subjective right fits into the set of fundamental rights, freedoms and guarantees and implies its direct applicability and the public and private entities binding (article 18 of CRP). Within this scope, we underline that the Ombudsman and the Commission for Citizenship and Gender Equality are the entities responsible for the safeguarding and promotion of the citizens' fundamental rights.

It is also important to underline that the principle of positive differentiation is not only guaranteed to children (in a less comprehensive age group than the one stated in the Convention on the Rights of the Child) and young people. According to Article 72 of the Portuguese Republic Constitution, the principle of positive differentiation is also guaranteed to elderly people (65 and over - age group established according to the National Statistics Institute data, taking into account, for example, the life expectancy indicator). In this sense, public social protection, namely in terms of Social Security, through its established mechanisms, particularly cooperation, promotes the provision of services (for example, the home support service), social responses (for example, residential structures), social benefits (for example, the Solidarity Supplement for the elderly) and other specific measures (for example, the leaflet providing information on the rights of the elderly people entitled "We want to talk about the rights of elderly people"), as well as the institutional accountability on the Social Responses Quality Assessment Models, 2010 (for example, the Home Support Service-Key Procedures Manual), in order to meet the needs and capabilities of the elderly people according to the following conditions: age (65 and over), psychosocial (dependency) or other (for example, elderly people in socio-economic need).

The Social Security Framework Law no. 4/2007 of 16 January, as amended by Law no. 83-A/2013 of 30 December, defines a social protection model for all citizens, namely the elderly. The social security system is based on principles such as universality, solidarity and participation, as well as the principle of equality, which implies the non discrimination of beneficiaries, namely on the basis of sex and nationality, without prejudice of the conditions of residence and reciprocity (Article 7 - Principle of equality).

This model is developed through different public structures, namely under the Social Security Institute responsibility that promotes the implementation of measures of a different nature, such as:

- Social services and facilities;
- Programmes to combat poverty, dysfunction, marginalisation and social exclusion;
- Cash benefits, exceptional short-term benefits of limited amount; and
- Benefits in kind.

Article 30

The Committee concludes that the situation in Portugal is not in conformity with Article 30 of the Charter on the ground that there was a lack of a co-ordinated policy in housing matters with regard to Roma (Collective Complaint No. 61/2010).

In what regards the access of Roma families to housing, we wish to clarify that Roma community members in Portugal are entitled to benefit from housing programmes on an equal basis with all the other citizens.

Here, we take the opportunity to provide for updated information to the European Committee of Social Rights on the developments in Portugal, in terms of the High Commissioner for Migration activities in the field of Roma communities' integration, namely the approval of the *National Strategy for the Integration of Roma Communities* (ENICC) (Council of Ministers' Resolution no. 25/2013 of 27 March)[2]. The ENICC is aimed to meet the Portuguese Roma communities' specific needs, through the establishment of a multidimensional and participated action plan for the period 2013-2020. This information is considered of particular importance considering the provisions of paragraph 19 of the document "Decision on merits - complaint No. 61/2010" of the European Committee of Social Rights.

It is important to underline that not only all the ministries have participated in the preparation of this Strategy, but also civil society organizations, representatives of Roma communities and experts, among others. In addition, not only in the preparation procedure, but also in the monitoring and evaluation procedures of the ENICC, there was a broad participation of several ministries, civil society organizations, municipalities, representatives of Roma associations and experts, among others and, in 24 June 2013, in line with Strategy's Priority 1, it was created the *Advisory group for the Integration of Roma Communities* (CONCIG), which is also responsible for the analysis and monitoring of the Roma communities situation in Portugal.

The Strategy comprises measures included in the initiatives/programmes already in place and establishes a broad set of new actions aimed to complement existing responses or to remedy weaknesses detected in the intervention with Roma communities, namely those that were subject to the analysis of the collective complaint no. 61 and the corresponding report of the European Committee of Social rights.

Therefore, we present a set of priorities, measures and targets established in the ENICC, aimed to respond to the majority of issues raised by the Committee, as follows:

I. In what concerns the,

[2] Available at: http://www.acidi.gov.pt/_cfn/516e7cd65a94f/live/Resolu%C3%A7%C3%A3o+do+Conselho+de+Ministros+n.%C2%BA+25%2F2013+

I. Alleged Violation of Article E taken in conjunction with article 31§1
Article E – non-discrimination
Article 31 – The right to housing

In what concerns housing, the introductory text of the National Strategy for the Integration of Roma Communities (ENICC) states the following:

"The promotion of social housing in Portugal is achieved through the cooperation between the State, Autonomous Regions and Municipalities and the State is responsible for the financial support and definition of the access conditions to supported housing on the basis of households' insufficient incomes.
Considering the principle of universal right in the access to housing programmes, on equal terms by all communities and ethnic groups, no specific responses have been created for Roma communities; however, best practices were established or reinforced to improve the materialization of public policies concerning those communities. Therefore, the aim is to ensure equal treatment in the access of Roma communities to housing, by taking into account their specific costumes in terms of housing and public space use, and combat the discriminating factors against this community.
In this context, and in order to adjust the housing solutions to these communities' specific costumes, it is necessary to make a preliminary diagnosis of their needs, identifying priority cases, regardless of being man or woman from the Roma community. Therefore, it is necessary to develop practices aimed to housing access that promote the integration of Roma communities. "

In this sense, (in response to paragraphs 29, 33, 40, and 53 of the Committee's report) the Strategy, in its Housing Axis, which is monitored by the Housing and Urban Renewal Institute (IHRU), has established 4 Priorities, 10 Measures and 10 Targets aimed to respond to identified weaknesses in terms of Roma communities' housing conditions.

Additionally, within this scope and in response to paragraphs 30, 32 and 46 of the Committee's report, the ENICC has set the following priorities, measures and targets:

> *Priority 26 – To improve knowledge about the Roma communities' housing situation.*
> Measure 26.1 – To develop studies and research on the Roma communities' housing situation.
> *Target – The Promotion of at least one study until 2020.*

In this context, in 2013, the Housing and Urban Renewal Observatory of the Housing and Urban Renewal Institute, in partnership with the High Commissioner for Migration, has launched a questionnaire within the scope of a study on housing conditions of Roma communities, to be carried out in the Portuguese municipalities. It was possible to implement the questionnaire in 308 municipalities, in order to study the housing conditions of Roma communities in those municipalities. 231 municipalities have answered the questionnaire (75%). The results show that 141 municipalities have Roma residents and 88 municipalities do not have any Roma residents.

Furthermore, in response to paragraphs 41, 43, 48, 49, 50, 51 and 52 of the Committee's report, the ENICC also foresees the following priorities, measures and

targets:

Priority 27 – To strengthen the practices that promote Roma communities' integration within the framework of housing policies
Measure 27.1 – To strengthen transparency and promote equality in social housing policies.
Target – The dissemination of the Local Housing Programmes' technical references in 100% of the municipalities, until 2020.
Measure 27.2 – To strengthen the inclusive nature of housing projects.
Target – Awareness raising of the 90% municipalities with Roma residents for the Roma culture specific features in order to provide for their rehousing, until 2020.
Measure 27.3 – To develop mediation mechanisms to prevent tensions, conflicts and exclusion situations.
Target – The adoption of an intercultural mediation as a strategy to ease the integration of Roma communities in 60% of social housing neighbourhoods until 2020.

According to information reported by the ENICC monitoring service, preparatory working is being carried out for the development of the *Housing Strategy*, to be promoted by the Housing and Urban Renewal Institute (IHRU) and this procedure is expected to be completed in 2014.

In response to paragraphs 31, 32, 33, 36, 37, 38, 39, 41, 42, 44, 46, 48 and 52 of the Committee's report, it is important to highlight the following ENICC priorities, measures and targets:

Priority 28 – To adjust the housing responses and rehabilitate the rehousing areas.
Measure 28.1 – To rehabilitate the Roma community neighbourhoods' physical appearance, their houses and infrastructures.
Target – The preparation of a specific programme of housing rehabilitation financed by the European Regional Development Fund (ERDF), according to Regulation (EC) no. 1080/2006, until 2020.
Measure 28.2 – To promote housing responses that foster integration and avoid territorial segregation.
Targets – The revision of technical standards and the promotion of good practices in this area until 2020.
Measure 28.3 – Whenever possible, to solve situations concerning spaces informally occupied by Roma communities through rehabilitation or rehousing measures.
Target - Whenever possible, to solve situations concerning spaces informally occupied by Roma communities through rehabilitation or rehousing measures, until 2020
Measure 28.4 – To meet the needs of non-sedentary populations
Target – The Promotion of minimum hygiene and well-being conditions in 80% of Roma camps until the families' rehousing procedure is completed, until 2020.

In what concerns paragraph 39 of the Committee's report, we inform that according to information gathered by the High Commissioner for Migrations (ACM), negotiations are being carried out between the local authorities and Roma families of Sobral da Adiça, to study solutions in terms of drinking water supply.

Also, in accordance with paragraph 42 of the Committee's report, rehabilitation works were carried out in the Roma neighbourhood of *Bairro das Pedreiras*, in the municipality of Beja, aimed to improve the housing conditions of this neighbourhood and significantly reduce its wall, in order to eliminate its allegedly segregating effect.

At the level of housing physical appearance and infrastructure rehabilitation of Roma neighbourhoods, as well as the solving of problems in areas informally occupied by Roma communities through rehabilitation or rehousing measures, the ENICC has already made 4 interventions in different areas, which significantly improved the living conditions of the Roma families covered. The Housing Institute has conducted rehabilitation projects that benefited buildings occupied by Roma families, as well as the respective neighbourhoods' infrastructure, namely in the areas of Campo Maior, Contumil, Cabomor and Peso da Régua, covering 89 Roma families.

Within this context, it is also important to underline priority 29 of the ENICC that foresees the following:

> *Priority 29 – To promote access to the rental market/private property.*
> *Measure 29.1 – To increase the owners' reliance in renting their houses to Roma families.*
> *Measure 29.2 – To develop Roma families' capabilities to comply with the specific housing requirements in multifamily houses.*
> *Target – The promotion of pilot projects for the creation of seven structures for the monitoring of rental contracts, through the establishment of partnerships between municipalities and civil society organizations, until 2020.*

II. In what regards the,

II. Alleged Violation of Article E taken in conjunction with article 16
Article E – non-discrimination
Article 31 – The right of the family to social, legal and economic protection

In what concerns paragraphs 55, 59 and 60 of the Committee's report, it is worth highlighting that the National Strategy for the Integration of Roma Communities (ENICC) foresees the establishment of measures aimed to obtain relevant information about the Roma communities with a view to better planning, implementation and evaluation of interventions in this area. Therefore, considering the legal limits in terms of sensitive information collection, the ENICC establishes the following:

> *Priority 2 – To conduct a national study, of transversal nature, aimed to know the social, economic and cultural situation of Roma communities and promote several studies within the scope of social sciences.*
> *Measure 2.1 – To conduct a national study, of transversal nature, aimed to know the social, economic and cultural situation of Roma communities.*
> *Meta – The conducting of a national survey until 2014.*

In this context, the High Commissioner for Migrations (ACM), with the support of the Technical Assistance Operational Programme of the European Social Fund, has approved the financing of the *National Study on Roma Communities,* after evaluation of several proposals from national research centres. This study, which is expected to

be completed until the end of 2014, will allow the portraying of the Portuguese Roma communities situation in the different areas of the ENICC and will be its primary diagnostic tool.

In addition, the ENICC foresees the following priorities that may respond to the Committees' conclusions:

> *Priority 15 – To develop an integrated and multisectoral approach/action with active participation of Roma people and families and of Roma communities' representatives within the scope of Social Action*
> *Measure 15.4 – To know more and Act better after understanding the sociological differences within Roma communities, including the impact of social action measures, specifically covering Roma people who are or have been holders or beneficiaries of social action measures, until 2020.*
> *Target – The conducting of an exploratory study on Roma people who are or have been holders or beneficiaries of social action measures, until 2020.*
> *Priority 18 – To know more about the school situation of Roma students and trainees*
> *Measure 18.2 – To monitor a database of itinerant students that enables an organized registration of students' data per Regional Directorate of Education (DRE) and per school group.*
> *Target – The preparation of an annual report until 2020, aimed to disseminate the situation of children and young people within the school context, with recommendations on this issue.*
> *Priority 26 – To improve knowledge about the of Roma communities housing situation*
> *Measure 26.1 – To develop studies and research on the Roma communities' housing situation.*
> *Target – The promotion of at least one study, until 2020.*
> *Priority 30 - To promote better knowledge about Roma communities*
> *Measure 30.1 – To identify potential target groups of the initiative*
> *Target - in 2013.*

The provisions of paragraph 58 of the Committee's report are framed in the set of measures and targets established in the previously mentioned Priority 28 "*To adjust the housing responses and rehabilitate the rehousing areas*".

III. In what concerns the,

III. Alleged Violation of Article E taken in conjunction with article 30
Article E – non-discrimination
Article 31 – The right to protection against poverty and social exclusion

As previously mentioned and, in response to paragraphs 61, 62, 65 and 71 of the Committee's report, the National Strategy for the Integration of Roma Communities (ENICC) was crated to be an integrated, multidimensional and participatory intervention plan aimed to meet the specific needs of Portuguese Roma communities, on the basis of five fundamental axes: (1) Education, (2) Housing, (3) Training and Employment (4) Health, and (5) the Transversal Axis (that includes dimensions in the area of Discrimination, Roma History and Culture, Education for Citizenship, Knowledge Improvement, Gender Equality, Justice and Safety, Mediation and Social Security).

In what regards paragraph 66 of the Committee's report, it is important to mention that within the previously mentioned measures and targets of the ENICC housing axis, the Priorities 27, "*to strengthen the practices that promote the Roma communities' integration within the framework of housing policies*" and 28, "*to adjust the housing responses and rehabilitate the rehousing areas* ", are in fact aimed to strengthen the inclusiveness of housing projects and promote integrating housing solutions, in order to avoid territorial segregation and solve problems in areas informally occupied by Roma communities through rehabilitation or rehousing measures.

The provisions of paragraphs 67, 68, 69 and 70 of the Committee's report are framed in the previously mentioned Priority 27 "*to strengthen the practices that promote the Roma communities' integration within the framework of housing policies* ", namely in what concerns the focus on intercultural mediation to promote rehousing projects more adequate to the needs of Roma communities (Measure 27.3 "*to develop mediation mechanisms to prevent tensions, conflicts and exclusion situations* ").

Furthermore, the combination of Priorities 12 ("to promote the training of Roma socio-cultural mediators"), 13 ("to generalise, in the medium term, the Municipal Mediators Project") and 14 ("To raise public institutions' awareness on intercultural mediation, as a strategy to promote more inclusive services") is aimed to develop and strengthen the coordinated work with municipalities in terms of projects/initiatives aimed at Roma communities, namely in the housing area.

Collective complaint of CESP (*Conseil European des Syndicats de Police*) vs Portugal (number 60/2010), violation of article 4§2

Law 10/2014 (attached) published in the Portuguese Government Official Gazette of 17 January established new percentages for the remuneration of criminal investigation staff, for both stand-by duty and active prevention.

This Law results from the Resolution of the Committee of Ministers of the Council of Europe following the decision by the European Committee of Social Rights on the Complaint 60/2010, which considered that the previous regime established by Law 98/97 of 13 February did not guarantee the increased remuneration established by no 2 of article 4 of the European Social Charter.

Law 10/2014 actually aims at rectifying the situation detected by the Committee and honouring the international commitments of the Portuguese State binding to the European Social Charter.

Law 10/2014 revises percentages awarded to criminal investigation staff (article 1), establishes a 40% prevention supplement (article 2), a new formula to calculate value/hour (article 3, no 1), a 100% increase from 23 hours (no 2), and finally a regime to remunerate shifts. In all cases, amounts have known an increase when compared to the previous regime.

With our communication GRI/UJC/72 of 23 January (also attached), the Ministry of Justice sent notice to the Ministry of Foreign Affairs of the publication of Law 10/2014, asking the latter to inform the Council of Europe accordingly.

Therefore, our conclusion is that the situation leading to Complaint 60/2010 is entirely overcome.

Response from Portugal to the conclusions of the European Committee of Social Rights of the Council of Europe

Part 2 – Response to additional information requests

Article 3 § 1

It asks for information in the next report on the public authority responsible for occupational health and safety in the autonomous regions of the Azores and Madeira. It also asks that the next report indicate whether the policy implemented is reviewed regularly in the light of changes in the risks.

In what concerns the prevention strategy revision in terms of possible changes in the detection of different occupational risks, we inform that, although the activity plan 2008/2010 of the Working Conditions Authority (ACT) had a triennial dimension, the ACT made strategic action inspection records on an annual basis, with permanent monitoring adapted to the labour market needs arising from the country's economic situation, employers or workers' requests, or from the evolution and/or changes in the material elements of work and respective risks.

The National Strategy for Safety and Health at Work 2008-2012 was based on two main axes: the focus on public policies and the promotion of occupational safety and health with the establishment of a set of goals aimed to the decrease of work-related accident rates and to the improvement of health and well-being conditions at work. Therefore, the ACT activity plan project records in the area of occupational safety and health promotion were based on the overall goals of the strategy, the domestic business fabric and the respective constraints and difficulties.

In this sense, several campaigns based on specific and multisectoral risks were developed, such as the campaign on "chemical hazards" and on the risks of working in "confined spaces", as well as initiatives taken within the scope of the European Week for Safety and Health at Work with a diverse set of events of territorial coverage. In 2011, the ACT Newsletter was created and programmes on the prevention of occupational risks were carried out in the central, regional and local public administrations. Agreement protocols were also concluded with external entities aimed to develop the National Network for the Prevention of Occupational Risks (for example, with the Institute for Drugs and Drug Addiction – to combat alcoholism and other drug addictions) and a good practice guide was developed aimed at fishing vessels, among other initiatives.

Article 3 § 1

The Committee asks for information in the next report on the national system for occupational risk prevention. It also asks for information on how enterprises put their obligations regarding risk prevention, workplace risk-assessment, preventive measures geared to the nature of the risks identified, and information and training for workers into practice. It also asks for information on the rules on the functioning, certification

and provision of occupational health and safety services provided for in Articles 73 et seq. of Act No. 102/2009.

Employers have the general obligation of organizing the occupational safety and health services, according to the four types of services provided for in article 74 of Law no. 102/2009 of 10/09. These services are responsible for the occupational safety and health (OSH) activities according to article 98 of the same Law, which include risk assessment, adoption of preventive measures and workers' training and information, among others. In order to carry out these activities, the OSH services must have qualified technicians (namely, safety and health technicians and senior technicians with valid competence certificates - following adequate training courses approved by the ACT - and occupational health doctors and nurses), as well as the necessary equipment and tools for the assessment of health and safety conditions at work, procedures for the assessment of these conditions, proper planning of activities and ability to engage in activities considered as high risk ones.

The type of OSH service mostly adopted by companies in Portugal is the external service, which is regulated by ACT within the scope of the safety area and by the Directorate General of Health (DGS) within the scope of the health area. This regulation involves the verification of the aforementioned requirements established for the start of activity, as well as a monitoring procedure through audits aimed to assess the compliance with the authorization requirements as well as the quality of services provided.

In what concerns the companies' OSH internal service (another possible type of OSH service organization), it is assessed through inspections carried out in the companies.

The micro companies (with less than 10 workers and without a high risk activity) may also adopt a simplified type of service organization in the safety area, ensured by the employer or by a worker designated by the employer, provided that they have the minimum training considered adequate in the OSH area and the necessary authorization by the ACT for that purpose. In what concerns the health area, they may count on the National Health Service support.

The fulfilment of OSH duties comprise the annual presentation of a single report by the employer, aggregating a set of information, particularly in what concerns the OSH service activities: type of service organization, technical staff, risk identification and assessment, health promotion, medical examinations, work-related accidents, occupational diseases, among others.

As for the data on the fulfilment of the duties in terms of risk prevention, risk assessment, adoption of preventive measures against the detected risks and workers' training and information, the ACT has presented data concerning the coercive and non-coercive procedures in the general safety and health areas and according to the 8th Report Separate Directives.

Article 3 § 1

It asks for the next report to state whether the National accreditation system includes the verification of occupational health and safety conditions. It also asks for

information on the involvement of the authorities in scientific and technical research on occupational health and safety.

Within the scope of Occupational Safety and Health, the National Accreditation System, regulated by the Portuguese Accreditation Institute (IPAC), provides for the accreditation of the certified bodies responsible for the implementation of OSH management systems in companies, according to the OHSAS 18001 standard.

This system is of voluntary access. However, if the monitoring of OSH services is made through audits performed by these certifying bodies, it implies the verification of safety and health conditions in the companies. Also, as previously mentioned, when the OSH activity in the companies is developed by external services, there is a mandatory regulation system to be fulfilled. This OSH management system is of the responsibility of national regulators in this area and includes the verification of safety and health conditions through monitoring visits in the companies where these entities provide their services.

In what concerns the ACT involvement in research and scientific studies on occupational safety and health, it is important to underline that the ACT, within the scope of the Operational Programme for the Promotion of Safety and Health at Work (PROAP), has financially supported public or private non-profit entities' projects aimed to ensure the promotion of safety and health of workers, provided that these entities have the necessary technical, organizational and financial capabilities and their contributory situation in order.

The support to OSH projects is aimed to achieve the following goals, crucial to carry out the National System for the Prevention of Occupational Risks, whose "pivotal entity" is the ACT:

- To promote the creation of a scientific and technical information system on OSH;
- To promote initial and continuous training of employers, workers and their representatives, trade union officials, safety managers and technicians;
- To develop research within the scope of OSH, aimed to the identification of hazards and the assessment of occupational risks and respective prevention measures in the workplace, to enable an effective improvement of working conditions and the consequent and expected reduction of work-related accident rates, as well as an increase in the companies' competitiveness, connected with the promotion of safety and health at work;
- Contribute to quality improvement of OSH services provided through the training of its professionals.

This programme's structure is based on three sub-programmes:

- Information and dissemination campaigns;
- Vocational training;
- Studies and applied research.

Article 3 § 1

It asks for information in the next report on the consultation of the bodies dealing with occupational health and safety issues within enterprises, particularly small and

medium-sized enterprises, and/or those that do not have a staff committee, workers' representatives or health and safety delegates.

The employer must consult in advance or in due time, the occupational safety and health workers' representatives on the following issues: (i) risk assessment on safety and health at work; (ii) preventive measures before being implemented or as soon as possible if their implementation is considered urgent; (iii) measures that, due to their technological and work impact, may affect the safety and health conditions in the workplace; (iv) training programmes and organization on safety and health at work; (v) the type of safety and health services to be adopted, as well as the use of external services to the company or of qualified staff for this purpose; (vi) the designation of the workers' occupational safety and health representatives, the designation and discharge of workers with specific duties in the field of occupational safety and health, as well as the designation of workers responsible for first aid, fire-fighting and evacuation measures; (vii) the necessary protection equipment; (viii) safety and health risks, as well as protection and prevention measures and how there are applied (Article 18 of Law no. 102/2009 of 10 September).

This consultation must be made in writing and it is aimed to obtain an opinion from the occupational safety and health workers' representatives or, failing this, the opinion of the workers themselves, and it also includes the annual list of fatal accidents at work and the ones that caused inability to work for more than three days, as well as the respective reports.

It should also be underlined that, in accordance with Article 18(7) of Law no. 102/2009 of 10 September, the workers and their occupational safety and health representatives may, at any time, make proposals about any occupational risk.

The workers' participation in this context is achieved through the election of the workers' occupational safety and health representatives and the employers must ensure that they have adequate facilities, as well as the material and technical means necessary to the performance of their duties (Article 24(1) of Law no. 102/2009).

The workers' occupational safety and health representatives «are entitled to a credit of five hours per month to perform their duties », they also have the right to disseminate and post information concerning occupational safety and health in the workplace, and «meet with the company's management body at least once a month to discuss and analyze issues related to safety and health at work» (Articles 21(7), 24 and 25(1) of Law no. 102/2009).

According to the following table, 1.250 workers' occupational safety and health (effective) representatives were elected during the period covered by the report:

Table 1
Workers' Occupational Safety and Health Representatives elected
2008 – 2011

Year	Voters	Representatives	Substitutes	Total (Rep + Subs)

2008	8.748	250	156	406
2009	19.761	250	174	424
2010	12.046	322	275	597
2011	15.595	428	374	802
Total	**56.150**	**1.250**	**979**	**2.229**

Source: the Working Conditions Authority (ACT)

The ACT does not have separate information on this subject. We highlight the fact that the ACT does not have the out-put of the data stated by the companies in the single report and, more important, in the annual report of the companies' health and safety activities. Much of this data could be collected from the annual activity report if there were processed in statistical terms.

In what concerns the offenses detected for non compliance with the consultation duty in the OSH area, we refer to the table on page 26 of the initial response.

Article 3 § 2

The Committee requests nonetheless that the next report also describe the measures taken to transpose the more recent EU acquis into domestic law, particularly the following Directives: Directive 2000/54/EC of the European Parliament and the Council of 18 September 2000 on the protection of workers from risks related to exposure to biological agents at work; Directive 2008/46/EC of the European Parliament and of the Council of 23 April 2008 amending Directive 2004/40/EC on minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (electromagnetic fields); Commission Directive 2009/161/EU establishing a third list of indicative occupational exposure limit values in implementation of Council Directive 98/24/EC and amending Commission Directive 2000/39/EC; and Directive 2009/127/EC of the European Parliament and of the Council of 21 October 2009 amending Directive 2006/42/EC with regard to machinery for pesticide application. It also asks for information on the measures taken to remedy the failing found by the Court of Justice of the European Communities in the transposition into domestic law of Directive 2003/105/EC of the European Parliament and of the Council of 16 December 2003 amending Council Directive 96/82/EC on the control of major-accident hazards involving dangerous substances.2 It also asks for clarification on the laws and regulations covering risks in the autonomous regions of the Azores and Madeira.

Transposition of Directives:

- Directive 2000/54/EC of the European Parliament and of the Council of 18 September 2000 on the protection of workers from risks related to exposure to biological agents at work: this directive has codified the Council Directive 90/679/EEC as subsequently amended by several directives. The transposition of the Council Directive 90/679/EEC into national law was made by Decree-Law no. 84/97 of 16 April, as amended by Law no. 113/99 of 3 August, and the Annex to Ministerial Order no. 405/98 of 11 June stating the biological agents list, as amended by the Ministerial Order no. 1036/98 of 15 December;

- Directive 2004/40/EC of the European Parliament and of the Council of 29 April 2004 on the minimum health and safety requirements regarding the exposure of workers to the risks arising from physical agents (electromagnetic fields) (18th individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) as amended by Directives 2008/46/EC of 23 April 2008 and Directive 2012/11/EU of 19 April 2012 concerning the deadlines for transposition: this was revoked by Directive 2013/35/EU of 25 June 2013, whose transposition period runs until 1 July 2016;

- Commission Directive 2009/161/EU of 17 December 2009 establishing a third list of indicative occupational exposure limit values in implementation of Council Directive 98/24/EC and amending Directive 2000/39/EC: transposed by Decree-Law no. 24/2012 of 6 February;

- Directive 2009/127/EC of the European Parliament and of the Council of 21 October 2009 amending Directive 2006/42/EC with regard to machinery for pesticide application: transposed by Decree-Law no. 75/2011 of 20 June;

- Directive 2003/105/EC of the European Parliament and of the Council of 16 December 2003 on the control of major-accident hazards involving dangerous substances: in fact, according to Judgment of the Court of Justice of 27 May 2007 (Case C-375/06) the Portuguese Republic did not meet the time limit set (before 1 July 2005) to bring into force laws, regulations and administrative provisions necessary to comply with the Directive; therefore, it has failed to fulfil the obligations under the Directive. However, the Directive has already been transposed into national law by Decree-Law no. 254/2007 of July 12.

Article 3 § 2

The Committee takes note of this information. It asks that the next report indicate the laws and regulations governing the establishment of levels of prevention and protection against occupational hazards specifically related to the establishment of, alteration to and upkeep of workplaces. It also asks for information on the measures taken to transpose Directive 2009/104/EC of the European Parliament and of the Council of 16 September 2009 concerning the minimum safety and health requirements for the use of work equipment by workers at work, which was adopted during the reference period, into domestic law.

Directive 2009/104/EC of the European Parliament and of the Council of 16 September 2009 concerning the minimum safety and health requirements for the use of work equipment by workers, codifies and revokes the Directive 89/655/EEC of 30 November, as amended by Directive 95/63/EC of 5 December and Directive 2001/45/EC of 27 June, which was transposed into national law by Decree-Law no. 50/2005 of 25 February.

Article 3 § 2

The Committee takes note of this information. It concludes that the legislation and regulations in force offer a level of prevention and protection against risks arising from asbestos and ionising radiation at least equivalent to that set by international reference standards. It asks for information in the next report on the transposition into domestic law of Council Directive 97/43/EURATOM of 30 June 1997 on health protection of individuals against the dangers of ionising radiation in relation to medical exposure and Directive 2004/37/EC of the European Parliament and of the Council of 29 April 2004 on the protection of workers from the risks related to exposure to carcinogens or mutagens at work. It also asks for information about the measures taken to incorporate the exposure limit value of 0.1 fibres/cm3 introduced by Directive 2009/148/EC of the European Parliament and of the Council of 30 November 2009 on the protection of workers from the risks related to exposure to asbestos at work, which was adopted during the reference period.

Transposition of Directives:

- Council Directive 97/43/Euratom of 30 June 1997 on health protection of individuals against the dangers of ionizing radiation in relation to medical exposure and revoking the Council Directive 84/466/Euratom (revoked by Council Directive 2013/59/Euratom of 5 December 2013 with effect from 6 February 2018): transposed by Decree-Law no. 180/2002 of 8 August, as amended by Decree-Law no. 20-A/230 of September, Decree-Law no. 279/2009 of 6 October and Decree-Law no. 72/2001 of 16 June;

- Directive 2004/37/EC of the European Parliament and of the Council of 29 April 2004 on the protection of workers from risks related to exposure to carcinogens or mutagens at work (sixth individual Directive within the meaning of Article 16(1) of Council Directive 89/391/EEC): this directive codifies and revokes Council Directive 90/394/EEC of 28 June 1990 and the several directives amending it; the transposition of Directive 90/394/EEC, as amended, was made by Decree-Law no. 301/2000 of 18 November;

- Directive 2009/148/EC of the European Parliament and of the Council of 30 November 2009 on the protection of workers from risks related to exposure to asbestos at work: this Directive codifies and revokes Directive 83/477/EEC of 19 September 1983 and the several directives amending it; the transposition of Directive 83/477/EEC, as amended, was made by Decree-Law no. 266/2007 of 24 July and its Article 4 establishes that "the exposure limit value is set at 0,1 fibre per cubic centimetre".

Article 3 § 2

The Committee takes note of this information. It notes that the legislation provides for information, training and medical supervision geared to the status of temporary, agency and fixed-term workers. It asks for information in the next report on the application of the aforementioned provisions in practice. It also asks for details on the manner in which representation for these categories of workers is organised.

The data concerning information, training and medical surveillance of temporary workers and fixed-term workers are not separated from the data concerning the other workers; therefore, the information regarding the monitoring and verification of compliance with the rules set on this issue is available on the tables concerning coercive and non-coercive inspection procedures on pages 26 and 27 of the initial response.

The fixed-term worker has the same rights and is assigned to the same duties as the permanent worker in a similar situation, unless objective reasons justify differential treatment (Article 146(1) of the Labour Code) and Law no. 102/99 of 10 September, which approves the legal requirements for the promotion and prevention of safety and healthy at work, as amended by Law no. 3/2014, which also republishes it, transposes *inter alia* the Council Directive 91/383/EEC of 25 June that completes the implementation of measures to promote improvements in terms of occupational safety and health of fixed-term or temporary workers.

Specifically in what concerns the temporary worker, during the assignment, he/she is subject to the rules applied by the user company concerning the mode, place, work duration and suspension of the labour contract, safety and health at work and access to social facilities, thus benefits from the same level of protection in the field of occupational safety and health as the other workers of the user company (Articles 185(2) and 186(1) of the Labour Code).

Before the temporary worker's assignment, the user company must send a written information to the temporary employment agency, namely about the results of the risk assessment on the safety and health of the temporary worker, considering the job he/she will perform, instructions on measures to be adopted in the event of serious and imminent danger, as well as how the occupational health physician or the hygiene and safety technician of the temporary employment agency may have access to the worker's vacant job (Article 186(1)(a)(b) and (d) of the Labour Code). The temporary employment agency is responsible for the worker's admission, periodic and occasional health examinations and the user company must ensure to the temporary worker sufficient and adequate training for the job (Article 186(4) and (6) of the Labour Code).

Furthermore, the temporary worker cannot be placed in a job particularly dangerous to his/her safety or health, unless he/she has the professional qualification for it (Article 175(4) of the Labour Code).

In cases where there are simultaneous or successive activities in the same workplace, the user company is responsible for the provision of safe and healthy working conditions to the temporary workers (Article 16(2)(a) and (3) of Law no. 102/99 of 10 September, as amended by Law no. 3/2014).

In what regards the way these workers' representation is organized, there are no differences between fixed-term workers and permanent workers.

As for the temporary workers, the temporary employment agency and the user company takes them into account in the implementation of the workers' collective representation structures' scheme, when matters regarding the temporary employment agency or the user company are at stake, including the establishment of these

representation structures. These workers are also considered by the user company in the establishment of OSH services organization according to the number of workers in the company. The user company must include information on these workers in the OSH annual report. Similarly, the temporary employment agency must include information concerning the temporary worker in its annual activity reports on safety and health at work (Article 189 of the Labour Code).

Article 3 § 2

The Committee asks for information in the next report on the application of these provisions to domestic workers.

In accordance with Law no. 102/2009 of 10 September, the general principles of occupational risks prevention foreseen in the legal requirements for the promotion of safety and health at work are also applicable to the domestic service whenever they are consistent with its own specific nature (Article 3(3)).

The general principles of prevention are applicable to the domestic service contract labour relations in the context of its own specific nature; this contributes to an adequate interpretation and implementation of the legal requirements on the promotion of safety and health at work, namely by employers and workers.

Also, according to Article 26(1) of Decree-Law no. 235/92 of 24 October, that establishes the legal requirements of the domestic service contract labour relations (which were taken into account in the Declaration of Rectification no. 174/92 of 31 October and in the amendment introduced by Law no. 114/99 of 3 August, in what concerns applicable offenses),*«the employer shall take the necessary measures to ensure that workplaces, tools, products and work procedures do not present any risk to the safety and health of workers; therefore, he must:*

a) *Inform the worker about the operation and maintenance of the equipment used in the performance of their duties;*
b) *Promote the repair of tools and equipment whose malfunction may pose risk to the safety and health of workers;*
c) *ensure the identification of containers that have products with toxicity degree or that may cause any type of injury and provide the necessary instructions for their proper use;*
d) *if necessary, provide adequate protection clothing and equipment, in order to prevent as much as possible the risk of accident and/or harmful effects to the workers' health;*
e) *when necessary, provide accommodation and food under conditions that safeguard the hygiene and health of workers»*

The employer has also the duty to transfer the responsibility for the repairing of the damage caused by an occupational accident to the entity legally authorized to undertake such insurance (Article 26(3)).

Article 3 § 3

According to the report, the number of cases of occupational disease certified by the National Centre for Protection against Occupational Risks (CNPRP) decreased during the reference period (from 3 174 in 2008 to 2 598 in 2010). There are no figures on cases of fatal occupational disease.

The Institute for Social Security (ex-CNPRP) confirms the number of cases as follows: 3.609 in 2007, 3.174 in 2008, 3.067 in 2009 and 2.598 in 2010. Concerning the number of cases of fatal occupational disease, we only can provide the following: 117 in 2007, 132 in 2008 and no data both in 2009 and 2010. In fact due to the shift on the database occurred in 2011, the figures in the remaining tables don't match and so cannot be reported for the moment.

Article 3 § 3

The Committee also notes the low number of certified cases of occupational disease, and asks that the next report provide information on the results of the measures already taken, and on any further steps taken to counter inadequate reporting or recognition of cases of occupational disease in practice, including by clarifying Act No. 98/2009 of 4 September 2009 regulating the compensation scheme of occupational accidents and diseases, including the professional rehabilitation and reintegration under Article 284 of the Labour Code. It further asks for data on cases of fatal occupational disease.

Workers have the right to perform their duties in hygiene, safety and health conditions and the employer is responsible to ensure those conditions «in all aspects of the work, by applying the necessary measures in accordance with the general prevention principles» (Articles 59(1)(c) of the Portuguese Republic Constitution, 281(1)(2) of the Labour Code and 15(1) of Law no. 102/2009).

Consequently, the worker has the «*right to compensation for damage caused by an accident or occupational disease*» (Article 283(1) of the Labour Code and Article 59(1)(f) of the Portuguese Republic Constitution) and indemnities are also due in case of injury, functional disorders or diseases that are «*a necessary and direct consequence of the activity carried out and are not due to normal physical wear and tear*» (Article 283(3) of the Labour Code).

The employer has the duty to ensure that workers with reduced work capacity (or gain), as a result of a work-related accident or occupational disease, may perform duties compatible with their health condition (Article 283(8) of the Labour Code).

Furthermore, there is another corollary under the general principle of protection of workers injured by a work-related accident or affected by an occupational disease, which is the suspension of the employment contract when the worker suffers from a temporary disability *«for more than a month»* (Article 296(1) of the Labour Code) instead of the immediate suspension of the employment contract.

The worker's disability due to a work-related accident or occupational disease developed at the service of the respective employer cannot represent any penalty, responsibility or charge, or discrimination factor for the worker.

Therefore, all discrimination according to Articles 24(1) and 25(1) of the Labour Code are forbidden, as well as unfair dismissal caused or motivated by the health condition of the worker injured by a work-related accident or affected by an occupational disease (Article 53 of the Portuguese Republic Constitution and Article 338 of the Labour Code).

Chapter IV of Law no. 98/2009 (the legal framework on work-related accidents and occupational diseases - LATDP) *«regulates the professional rehabilitation and reintegration scheme of the worker injured by a work-related accident or affected by an occupational disease, which caused him/her a temporary partial disability or a permanent disability, partial or total, to perform his/her usual work* (Article 154).

The employer has the duty to ensure that workers with reduced work capacity (or gain), as a result of a work-related accident or occupational disease, may perform works compatible with their health condition (Article 283(8) of the Labour Code and Article 155 of the legal framework on work-related accidents and occupational diseases).

The compliance with the obligation of work performance compatible with the worker's health condition must be ensured in order to effectively promote the professional rehabilitation and reintegration of workers whose disability is due to a work-related accident or occupational disease contracted at the service of the employer.

Therefore, professional reintegration includes the placing of the worker in another job compatible with his/her health condition or the adaptation of the job that he/she had before the injury (Article 25(1)(h) and Article 155(2) of the legal framework on work-related accidents and occupational diseases).

The employer must also ensure «*vocational training*» and «*job adaptation*» to the worker injured by a work-related accident or affected by an occupational disease (Article 155(2) of the legal framework on work-related accidents and occupational diseases).

«A worker with reduced work capacity, resulting from a work-related accident or occupational disease», must be engaged in duties compatible with his health condition and he/she is «entitled to be exempted from working hours with adaptability, extra work and work at night time». These special conditions shall be guaranteed by the employer at whose service the worker has been injured by a work-related accident or affected by an occupational disease *«during the period of the worker's disability»* (Article 157(1) of the Labour Code).

The worker who performs duties compatible with his/her permanent disability also has the right to work on a part time basis and to take a leave for training purposes or to look for a new job (Article 158(1) of the legal framework on work-related accidents and occupational diseases).

«The worker injured by a work-related accident or affected by an occupational disease who performs duties compatible wit his/her health condition» is entitled to earnings calculated *«on the basis of his/her earnings at the day of the accident, except if, in the meantime, his/her earnings corresponding to his/her professional category had changed; in this case, these will be the ones considered in the calculation»* (Article 157(1)(2) of the legal framework on work-related accidents and occupational diseases). *However, the earnings' amount cannot be «lower that the amount due for the worker's remaining capacity» (Article 157(3)* of the legal framework on work-related accidents and occupational diseases*) and it is forbidden to make any deductions on earnings due «as compensation for the costs concerning the scheme established by this Law»* (Article 13 of the legal framework on work-related accidents and occupational diseases).

«Without prejudice to other rights foreseen in the Labour Code», the worker with temporary disability due to a work-related accident or occupational disease who is unfairly dismissed is entitled *«to an indemnity amount equal to twice the amount due in case of unfair dismissal», in the case he/she does not opt for reintegration in the company* (Article 157(4) of the legal framework on work-related accidents and occupational diseases and Article 391 of the Labour Code).

Apart from technical support in terms of job adaptation to the specific needs of the worker injured by a work-related accident or affected by an occupational disease, the employer that ensures a work compatible with the worker's health condition may also «*benefit from technical and financial support provided by the public service responsible by the employment and training areas within the scope of programmes related to professional rehabilitation of people with disabilities, provided that they meet the necessary requirements for that purpose*» (Article 160(1) of the legal framework on work-related accidents and occupational diseases).

Charges with professional reintegration result from interventions arising from the obligations provided for in Article 155(1)(2) of the legal framework on work-related accidents and occupational diseases, and may consist in job adaption/removal of architectural barriers; vocational training; information, evaluation and guidance for qualification and employment; support to job-placement; and follow-up after job-placement.

Within the scope of occupational diseases, there may also be charges for the reimbursement of travel expenses, food and accommodation, essential to those who benefit from social and professional rehabilitation and reintegration services, as well as reimbursement for any other expenses, as long as they are necessary and adequate to the restoration of the worker's gain capacity and his recovery for active life (Articles 163(7), 104 and 99 of the legal framework on work-related accidents and occupational diseases).

Charges with professional reintegration of workers that continue at the service of the company where he/she was injured by a work-related accident or affected by an occupational disease are, as a rule, supported by the employer (Article 163(1) of the legal framework on work-related accidents and occupational diseases).

In situations where it is impossible to ensure to the worker an occupation compatible with his/her health condition (Article 161 of the legal framework on work-related

accidents and occupational diseases), the charges with professional reintegration are assumed by the employer and by the Employment and Vocational Training Institute (IEFP), in the case of a work-related accident, or by the employer and by the National Centre for the Protection against Occupational Risks (CNPRP), in the case of occupational disease (Article 163(2) of the legal framework on work-related accidents and occupational diseases).

However, the employer is only required to pay charges up to twice the compensation amount due for unfair dismissal (Article 163(3) of the legal framework on work-related accidents and occupational diseases).

Furthermore, the professional rehabilitation of the worker injured by a work-related accident of affected by an occupational disease is aimed to his/her health or functional and professional recovery so that he/she may be able to return to active life (Article 25(1)(i) of the legal framework on work-related accidents and occupational diseases).

Therefore, technical and financial supports provided within the scope of professional rehabilitation programmes aimed at persons with disabilities may also be granted to the employer that promotes the worker's professional rehabilitation, provided that he meets the respective requirements (Article 160(2) of the legal framework on work-related accidents and occupational diseases).

In what concerns the occupational disease, the rehabilitation costs are supported by the National Health system and by the Social Security System through CNPRP (the National Centre for the Protection against Occupational Risks).

It is also important to underline that the job performed by the worker injured by a work-related accident or affected by an occupational disease in conditions compatible with his/her health condition may also be ensured by another employer and the Public Employment Service may be required to evaluate the situation with a view to job adaptation and adequate training provision (Articles 159(2)(4) of the legal framework on work-related accidents and occupational diseases). This Public Service intervention must only be required with the agreement of the employer and the worker.

Article 3 § 3

In order to gauge the effectiveness of inspections and the deterrence of sanctions, the Committee asks that the next report include data on investigations into non-fatal occupational accidents; orders to suspend work; orders to prohibit activity; orders to deprive of the right to participate in public tenders; filings for criminal prosecution; single and overall amounts of fines imposed; and sentences passed on cases referred to the public prosecutor's office. It would also ask for comments on the implementation of Act No. 107/2009 in practice and on the any other bodies vested with inspection powers in certain sectors and/or in the autonomous regions of Madeira and the Azores.

Surveys concerning non-fatal accidents during the period 2008-2011 were not processed in statistical terms by the Working Conditions Authority (ACT).

In what regards work suspensions within the Directive on the implementation of minimum safety and health requirements at temporary or mobile construction sites, the ACT has the following data available:

Table 2
Number of work suspensions

Year	2008	2009	2010	2011
Work suspensions	2.056	1.915	1.203	834

Source: The Working Conditions Authority (ACT)

The ACT does not have separate statistical data in what regards the possibility of an accessory application of activity interdiction and deprivation of the right to participate in auctions or public procurements.

As for the fines' amount (EUR), the following table shows data concerning this issue, in separate and global terms:

Table 3
Coercive and non-coercive procedures in other fields of Safety and Health at Work (2010/2011)

Subject	Fines Minimum amounts			
	2011	2010	2009	2008
General prevention principles	**240.361**	**323.932**	**451.908**	*
Workers' participation	**107.406**	**157.963**	*	*
OSH Workers' Representatives – Elections	0	0	960	*
Other	810	157.963	*	*
Vocational training	**180.156**	**199.909**	**77.604**	*
Lack of adequate vocational training in OSH	100.308	129.708	*	*
Workers' training (designated workers/workers in charge of first aid measures implementation, fire-fighting and evacuation/workers' representatives)	3.060	8.874	*	*
Other	76.788	61.327	*	*
OSH Activity	**2.471.986**	**3.129.267**	**1.354.814**	*
Planning and programming	6.834	25.704	6.834	*
Risk assessment	333.880	339.048	61.458	*
Internal safety inspections	5.304	3.468	*	*
Accident analysis	15.810	12.660	6.996	*
Accident statistics	714	0	1.440	*
Health surveillance	2.056.200	2.563.461	1.117.694	*
Emergency activities	53.244	184.926	76.872	*
Coordination of external activities	**25.500**	**31.764**	**83.520**	*

OSH services' organization	**0**	**715.610**	**106.722**	*
Vulnerable groups	**19.686**	**13.770**	**2.496**	*
Pregnant women	0	6.528	*	*
Minors	19.686	7.242	*	*
Mandatory documents	**93.534**	**117.102**	**89.574**	*
Accident reports	87.720	71.712	59.436	*
OSH activities	2.142	4.386	19.182	*
Types of OSH services	3.672	9.996	7.968	*
Annual report / Single report	0	31.008	2.988	*
Work-related accidents and occupational diseases compensation	**4.414.477**	**2.634.779**	*	*
First aid	0	0	*	*
Work-related accidents insurance	4.167.331	2.652.759	*	*
Occupational disease notification	0	0	*	*
Occupational rehabilitation and reintegration duties	1.530	1.020	*	*
Other	29.274	0	*	*
TOTAL	**7.553.106**	**7.5000.450**	**4.624.990**	**18.423.747**

* This subject was not handled autonomously
Source: ACT

Table 4
Coercive and non-coercive procedures – special community directives

Legislation transposing special community directives	**Fines Minimum amounts**			
	2011	**2010**	**2009**	**2008**
Workplaces	**328.713**	*	**367.074**	*
Work equipment	**240.448**	*	**336.270**	*
Equipment and visor	**0**	*	**-**	*
Personal protective equipment	**12.342**	*	**19.764**	*
Manual load handling equipment	**4.488**	*	**5.166**	*
Safety signs	**6.018**	*	**17.772**	*
Physical agents	**26.622**	*	**59.238**	*
Noise	14.382	*	59.238	*
Vibrations	12.240	*	-	*
Optical radiations	0	*	-	*
Chemical agents	**140.249**	*	**17.616**	*
Chemical agents ELV	34.680	*		*
Cancerous agents	0	*	-	*
Asbestos	92.207	*	58.380	*
Lead	0	*	-	*
Explosive atmospheres	13.362	*	4.284	*
Biological agents	**5.916**	*	**-**	*
Special sectors	**2.722.638**	*	**4.490.188**	*
Construction sites safety	2.706.828	*	4.486.444	*
Extractive industry	15.810	*	3.744	*
Fishing vessels	0	*	*	*

TOTAL	**3.487.434**	*	**5.376.001**	*

* This subject was not handled autonomously

The fines calculated as a result of dealing with cases of labour offense and fines imposed in the various decentralized services of the Working Conditions Authority (ACT), in the four years under consideration, are shown in the following table:

Table 5
Deposit of fines collected between 2008 and 2011 (Euros) *

Year	**2008**	**2009**	**2010**	**2011**
Deposits	15.576.990	10.707.656	11.363.249	13.460.252

* The deposited fines are not indicated separately; they represent the whole of labour violations in terms of safety and health at work

During the four years under review, there were the following criminal complaints:

Table 6
Criminal complaints 2008/2011

Year	**2008**	**2009**	**2010**	**2011**
Disobedience	*	*	*	8
Qualified disobedience	*	*	*	100
Unfair closure	*	64	34	32
Other	*	*	*	14
Total	*	**64**	**34**	**154**

* These data were not handled autonomously

In what regards judgments issued within the scope of offences applied following inspection procedures, the courts do not always send this information to the ACT.

Article 3 § 4

The Committee points out that in accepting Article 3§4 of the Charter, States Parties undertake to ensure that all workers have access to occupational health services in all branches of economic activity and in all enterprises. It therefore reiterates its request for the percentage of enterprises and establishments which, in practice, provide access to external or joint safety, hygiene and health services. It also asks that the next report provide information on the following aspects: the relevant laws and regulations applicable in the autonomous regions of Madeira and the Azores; the actual content of occupational safety, hygiene and health services provided by the employer or his designated representative; the occurrence and periodicity of medical examinations in law and practice; and the accreditation and supervision of external providers of occupational safety, hygiene and health services.

The organization of the simplified type of OSH internal services by the employer or by a worker designated by the employer in companies that are not engaged in high risk

activities and that do not have more than nine workers allows more understanding of the legislation in force and contributes more to the workers involvement in these activities. Attendance in training courses validated by the ACT (acquisition of basic skills in safety, health, ergonomics, environment and work organization) and consequent performance of OSH duties by the designated worker shows that the legal provisions on this issue are being learned and implemented.

It should be noted that the authorization for this type of OSH internal service is revoked whenever there is a fatal accident at work following the violation of OSH rules by the employer or when he/she has been convicted in the past two years due a very serious offence in the field of OSH, or has repeated serious offence in that field.

Risk assessment checklists were made available in different activity sectors and the ACT has provided for a set of information on its website to answer the frequently asked questions[1], concerning the implementation of Law no. 102/2009 of 10-09 in its current version, including information about the authorization procedure of the employer/designated worker.

The ACT, within the scope of its validation activity of training courses to be given under this type of service organization, also sought to assist the entities in the development of training actions adjusted to the profile of the employer/designated worker.

We highlight the fact that the ACT does not have the out-put of the data stated by the companies in the single report and, more important, in the annual report of the companies' health and safety activities. Much of this data could be collected from the annual activity report if they were processed in statistical terms.

The information concerning medical examinations is already stated in the 8th Report.

Occupational Safety and Health Services and Activities

The reduction of work-related accidents and occupational diseases depends largely on the quality of prevention services provided in the companies and for the companies. To improve the quality of these services' provision and strengthen the competences of the respective actors - hygiene and safety technicians, occupational physicians, workers and employers' representatives, designated workers and the employers themselves - it was developed an action aimed at the services provided by the employer or by the companies' internal services, another action aimed at other activities provided by external services authorized or in the process of authorization, and finally, an action aimed to the monitoring of companies whose authorization application has been refused or that did not even submitted an application for examination, thus, are illegally developing their economic activity in the market.

[1] http://www.act.gov.pt/(pt-PT)/Itens/Faqs/Paginas/default.aspx

Table 7
Inspections

Inspections	Visits	Notifications	Warning notifications	Informations	Infractions	Fines €	
						Min.	Max.
3.570	4.056	1.692	185	3481	326	625.991	1.838.698

Source: The Working Conditions Authority (ACT)

Following the inspections, 326 cases of infractions directly related to OSH services were subject to coercive action, to which were imposed fines in the amount of €625.991. The companies were notified in order to take measures concerning the 1692 irregular situations verified.

Activities provided by the Employer, by Internal Services or by Inter-company services

The action was aimed to the conducting of inspections to control the development of the occupational safety and health services' main activities, namely: risk identification and assessment, planning and programming of prevention measures, promotion of the workers' health surveillance, information and training about risks and prevention and protection measures, organization of collective and individual prevention measures, coordination of measures to adopt in the event of serious and imminent danger, posting of safety signs, analysis of work-related accidents and occupational diseases, collection and organization of statistics concerning safety and health at work, internal safety inspections, updating of the elements determined by law, namely the listing of measures, proposals or recommendations by the occupational safety, hygiene and health services.

The inspections covered the metalworking, chemical, food, accommodation and catering industries, trade and service activities and other sectors defined per region. They were carried out in companies with occupational safety, hygiene and health service providers and in companies with high risk activities and/or with more than 10 workers. The following table shows the data concerning this issue:

Table 8
Inspections

Inspections	Visits	Notifications	Warning notifications	Informations	Infractions	Fines €	
						Min.	Max.
378	421	129	5	385	10	9.366	19.926

Source: The Working Conditions Authority (ACT)

Activities provided by external services

According to the goals defined for the implementation of the ACT Inspection Plan, there were inspection visits to control the development of the occupational safety and health services' main activities, namely risk identification and assessment, planning and programming of prevention measures, promotion of the workers' health surveillance, information and training about risks and prevention and protection measures, organization of collective and individual prevention measures, coordination of measures to adopt in the event of serious and imminent danger, posting of safety signs, analysis

of work-related accidents and occupational diseases, collection and organization of statistics concerning safety and health at work, internal safety inspections, updating of the elements determined by law, namely the listing of measures, proposals or recommendations made by the occupational safety and health services and verification of the existence of an employer's representative in the company. The following table shows the data concerning this issue:

Table 9
Inspections

Inspections	Visits	Notifica-tions	Warning notifications	Informa-tions	Infractions	Fines €	
						Min.	Max.
2995	3425	1494	176	2906	306	587.225	1.661.758

Source: The Working Conditions Authority (ACT)

Audits carried out in Companies that provide Occupational Safety and Health services

The action consisted of visits carried out by labour inspectors following-up monitoring audits conducted by ACT technicians to external occupational safety and health service providers within the scope of the respective operating authorizations, in order to assess their compliance with the established requirements. The following table shows the data concerning this issue:

Table 10
Inspections

Interven-tions	Visits	Notifications	Warning notifications	Informa-tions	Infractions	Fines €	
						Min.	Max.
34	39	24	0	39	3	11.832	66.198

Source: The Working Conditions Authority (ACT)

39 follow-up monitoring audits were made to external occupational safety and health service providers, 24 cases of irregularities were detected and subject to a notification procedure of the measures to be taken by the external OSH providers and 3 legal proceedings were taken, which corresponded to the imposition of fines in the amount of €11.832.

Control of Companies that provide occupational Safety and Health services and of Occupational Safety and Hygiene Technicians in Irregular Activity

The action was, on the one hand, aimed to perform inspections on OSH activities carried out by service providers whose authorization application has been refused or that did not even submitted an application for examination and, on the other hand, to check the activities performed by occupational safety and hygiene technicians not authorized to engage in the activity.

Within this scope, the labour inspectors made 171 visits, from which 7 legal proceedings were taken, which corresponded to the imposition of fines in the amount of €17.568. 45 irregularities were detected and subject to a notification procedure of the measures to be taken by the external OSH providers, as it may be seen in the following table:

Table 11
Inspections

Inspections	Visits	Notifications	Warning notifications	Informa-tions	Infractions	Fines €	
						Min.	Max.
163	171	45	4	151	7	17.568	90.816

Source: The Working Conditions Authority (ACT)

Article 3 § 4

In view of the progressive nature of the obligations set out in Article 3§4 of the Charter, the Committee further asks that the next report contain information on any strategy to improve access to occupational safety, hygiene and health services in small and medium-sized enterprises (SMEs), in consultation with employers' and workers' organisations.

Hazards' identification and assessment in the workplaces during the planning phase of facilities, equipment, substances and procedures is one of the key moments of a quality policy in terms of occupational safety and health services. However, the prevention of work-related accidents and occupational diseases is not limited to risk assessment; it must be part of a coherent and integrated process of continuous improvement, planned and permanently checked.

Small and medium-sized companies, which comprise about 90% of the Portuguese business fabric, are organizations that, due to their unstructured features, are usually more distant form information procedures and tend to see the safety and health at work as an unnecessary cost. However, regardless of their size, these companies participate in all economic sectors, often as subcontractors of larger companies and employ a very significant number of workers.

This business segment features justify that, in 2009, a nationwide campaign was developed in cooperation with the technical prevention area, the social partners and the academic and technological society. This campaign was aimed to promote the dissemination of information to raise the companies' awareness on a safety culture, developed not only through dissemination and technical support strategies, but also through monitoring and intervention activities in the companies with a view to achieving greater levels of safe and healthy working conditions in the workplaces.

Thereby, a programme was developed following the European Campaign on Risk Assessment in Small and Medium-sized Companies, in 2 sectoral actions. We highlight that, due to delays in the approval of the project application to be submitted to the European Commission, the development of the campaign in terms of risk assessment in the use of hazardous substances was implemented mainly in 2010.

In 2009, 38 inspections were carried out aimed to risk assessment and prevention in micro and small-sized companies of the primary, secondary and tertiary sectors, as shown in the following table:

Table 12
Inspections

Inspections	Visits	Notifications	Warning notifications	Informa-tions	Infractions	Fines €	
						Min.	Max.
31	38	38	2	37	5	5.916	15.233

Source: The Working Conditions Authority (ACT)

As a result of the inspections developed within the scope of Programme 1, the ACT services have held 5 legal procedures by reason of infractions detected, which corresponded to the imposition of fines whose minimum amount was of €5.916. It was adopted a notification procedure of the measures to be taken by the services in what concerns 38 irregularities detected in the risk assessment and prevention areas in micro and small-sized enterprises.

The National Strategy for Safety and Health at Work (2008-2012) was approved by the Council of Ministers Resolution no. 59/2008 of 12/03, after discussion in the National Council of Hygiene and safety at Work (abolished in 2007) – a tripartite body that had the participation of public administration and Social Partners' representatives.

Law no. 35/2004, of 29/07, regulates the law that approved the Labour Code and systematizes the transposition of several directives, among which the Council Directive no. 89/391/EEC (transposed by Decree-Law no. 441/91 of 14/11 and Decree-Law no. 26/94 of 01/02 and Ministerial Orders no. 109/2000 and 110/2000). This law has a specific section concerning Occupational Safety and Health services, stating their different types of organization, from which we highlight the following:

- Authorization for the provision of external occupational safety and health services;
- Authorization for the performance of safety activities at work by the employer or by the worker designated by the employer;
- Authorization for the exemption of internal services;
- Approval for the establishment of a common service agreement;
- Monitoring of services' operation through audits aimed to assess the compliance with the authorization requirements as well as the quality of services provided.

In 2009, Law no. 102/2009 of 10 September was published, regulating the legal requirements for the promotion and prevention of safety and health at work, in accordance with the provisions of Article 284 of the Labour Code (Law no. 7/2009 of 12/02). This Law is applicable to all activity sectors, namely the private or cooperative and social sectors, and employees. It is also applicable to self-employed persons.

This legal mechanism foresees that the employer or designated worker may be responsible for the occupational safety and health activities in companies with less than nine workers and not subject to high risk exposure; thus allowing the adjustment of the legislation to small-sized companies. There was an effort to disseminate

information about this type of service organization to the employers covered by this legal assumption.

In what concerns occupational health, the Framework Law for Safety and Health at Work establishes that companies with reduced size may ask the public health system (the National Health Service) to conduct some activities, namely health examinations. However, the necessary conditions for the effective implementation of this system were not created during the period under review (they were only created in 2014 through Ministerial Order no. 112/2014 of 25/05).

As it was already mentioned, the National Strategy for Health and Safety at Work 2008-2012 has defined two fundamental axes for the development of occupational safety and health policies: the one that concerns the implementation of public policies and the one concerning the promotion of safe and healthy working conditions in the workplaces.

In this second axis, different measures were contemplated, such as:

- The creation of explicit yet simple documents adjusted to the sectoral reality, aimed to the full integration of prevention measures in the productive activity of companies where the OHS is ensured by the employer/designated worker (Measure 8.1);
- The provision of «self-assessment manuals» aimed at small and micro companies (Measure 8.2);
- The publication of «implementation guides» in a logic of activity similarity (sectoral logic) aimed at small and micro enterprises (Measure 8.3);
- Provision of information about the implementation of occupational safety and health legislation, namely to small and micro enterprises (Measure 8.4);
- The establishment of incentives for the training of «designated workers» and «employer representatives» for the monitoring of external occupational safety and health services (Measure 9.2);
- The promotion, encouragement and financial support to the training of designated workers, employers and employers' representatives (as 10.5).

In what regards the aforementioned six measures, we highlight the following:

- Measure 8.1 – the production of documents specifically targeted to this simplified model of OSH services' organization. The Working Conditions Authority (ACT) has provided on its website a set of information to answer the frequently asked questions (Faq) concerning the implementation of Law no. 102/2009 of 10 September, which include information about the authorization process associated with the employer/designated worker. The ACT, within the scope of its validation activity of training courses to be taught under this type of service organization, also sought to assist entities in the development of training actions adjusted to the profile of the employer/designated worker.
- Measure 8.2 – the production of self-assessment manuals concerning works with free silica were made available to the chemical, rubber and plastics sectors, as well as to the watch and jewellery sectors. Self-assessment manuals were also produced for temporary employment companies, local authorities and the hydrotherapy sector;

- Measure 8.3 – the publication of occupational safety guides, namely: the occupational safety guide aimed at small and medium-sized companies and the brochure on the rights of workers in the field of Safety and Health at Work;
- Measure 8.4 - information on the legislation implementation was made available on the ACT website, especially aimed at the small and medium-sized companies and an electronic publications segment was structured, having been released a guide on OSH, called «Safety and health at work: guide for micro, small and medium-sized companies», which is aimed to facilitate the compliance with legal obligations, as well as to provide tools for the management of occupational safety and health issues. This guide provides the necessary steps to be adopted in the implementation and management of safe and healthy working conditions and it is aimed to ensure that all the necessary measures are implemented.
- Measure 9.2 and 10.5 - during the period covered by the National Strategy for OSH, 121 training actions aimed at the employer's representative/employer/ designated worker were validated and there was an average attendance of twenty trainees per training action; also 131 applications for training actions were submitted and supported.

Article 11 § 1

The Committee asks the next report to indicate the other main causes of mortality, as well as what preventive measures are taken in respect of the eight priority areas identified under the National Health Plan (2011-2016), i.e., cardiovascular diseases, oncologic diseases, diabetes, respiratory diseases, mental health, HIV/AIDS, the promotion of a healthy diet and the prevention of smoking.

Smoking

The national programme for the prevention and control of smoking (PNPCT), created in 2012, is part of the National Health Plan (2012-2016), having as purposes:

- Increase the healthy life expectancy of the Portuguese population, through the reduction of diseases and premature mortality associated with consumption and exposure to tobacco/smoke;
- Reduce the prevalence of Smoking (daily or occasional) in population with 15 or more years in at least 2% until 2016.
- Eliminate the exposure to environmental tobacco smoke.

This program has as main references the WHO Framework Convention on tobacco control and the WHO MPOWER Strategy.

The PNPCT is structured according to three strategic axes: nuclear prevention of initiation of consumption, smoking cessation promotion and protection from exposure to environmental smoke, complemented by two intervention cross axes, oriented to the information, education, assessment, training and research:

1. Prevent initiation of tobacco consumption among young people
2. Promote and support smoking cessation
3. Protect from exposure to environmental tobacco smoke
4. Inform, alert, and promote a social climate favourable to not smoking.

5. Monitor, evaluate and promote vocational training, research and knowledge in the field of prevention and control of smoking.

The main activities include: the creation of an infrastructure for coordination and implementation of the programme at the level of the regional services (5 ARS), open to the participation of the autonomous regions.

As regards legislative processes PNPCT accompanied the technical policy discussion on the Directive 2014/40 of 3 April/UE.

Annually, technical reasoning towards increasing taxes on tobacco products in the context of the general budget of the Estado has been defined.

Cooperation between Ministry of Health and Ministry of Education has been growing and manuals on the prevention of smoking in young people and on teachers is being prepared.

Tobacco use in pregnancy has been the subject of particular attention, in the form of information and education materials for health. A handbook for health professionals on smoking cessation in pregnancy will be delivered soon.

The national health programme for children and young people includes the issue of exposure to environmental tobacco smoke.

A campaign on environmental tobacco smoke exposure of children at home and in the car will be launched.

In partnership with the Portuguese Federation of Rugby a tobacco prevention campaign was developed, under the UEFA European Sevens under-19 in May 2014.

In 2013, was made the characterization of specialized queries in the intensive smoking cessation support, available on the National Health Service, as well as the training needs of the teams of professionals. These consultations were exempted from payment.

In 2014 a large investment in the training of health professionals in the area of smoking cessation was developed, having been conducted seven regional training actions on the following themes: "brief interventions" and "smoking cessation in people with mental health problems and multidependencies".

A referral network of care under the intensive support for smoking cessation is being implemented, in coordination regional services (ARS).

In November 2013, a National Meeting on the best practices on the prevention and control of smoking took place, for presentation and discussion of experiences of intervention. A new national meeting, to be held in 2015, is in preparation.

To monitor the problem, a report on the prevention and control of smoking in Portugal was published in 2014.

The PNPCT is the focal point of the WHO and the European Commission with regard to tobacco, promoting the implementation of the WHO Framework Convention and of European Policies.

The PNPCT coordinates the process of collection and transmission to the Commission of information on tobacco.
Finally, the PNPCT disseminates information on the prevention and control of smoking, on the website of the Ministry of Health, and responds to requests from health professionals, the media and citizens in this area.

Mental health

Suicide mortality rates in Portugal had the following values in recent years: 2008 (9.7/100,000), 2009 (9.5/100,000), 2010 (10.4/100,000), 2011 (9.5/100,000) and 2012 (10.1/100,000).

In order to prevent the difficulties associated with the figures related to suicide, particularly a more rigorous clearance of the annual rates of mortality from suicide, was developed by the Ministry of Health an information system of death certificates (SICO), created and regulated by law No. 15/2012, of April 3.

This system relied on the cooperation of the National Institute of Legal Medicine and forensic sciences, and is currently implemented.

One of the main preventive measures adopted recently, was the creation of a national program for suicide prevention (PNP). The PNP is included in the redefinition of the National Mental Health Plan 2007-2016.

In 2013, and after work carried out by a Commission specially created for the purpose, was published the national plan for suicide prevention 2013-2017, with the following objectives:

- Homogenize the terminology and the records of self-injury behaviour and suicidal acts;
- Start the characterization of the situation accurately, in particular as regards a more correct identification of self-injury behaviour and suicidal acts;
- Increase the accessibility to health care;
- Increase the monitoring of people with suicidal behaviours, and suicidal acts at the level of primary health care;
- Increase access to differentiated care through the creation of specialized queries in all districts;
- Reduce access to lethal means;
- Improve monitoring after leaving hospitalisation;
- Decrease the stigma around depression, suicidal ideation, suicidal acts and self-injury behaviours;

Other measures implemented include, support for regional prevention programs, particularly those aimed at the prevention of risk behaviour in children and youth, developed locally and at schools.

Article 11 § 1

Finally, the involvement of the community in the management of primary healthcare will also be explored. The Committee asks to be kept informed on the implementation of these different initiatives and on their results.

Access to surgery

In 2013, were subjected to surgical intervention 544.377 persons, representing a growth of 1.9%, compared with the previous year, and 57.6%, compared with 2006 (8 years). The public hospitals increased surgical activity in 4.1%, performing the best ever result of the National Health System, with 502.251 patients operated, exceeding the barrier of 500 thousand. On the other hand, private sector has registered a reduction of 40.7% of its activity regarding 2012, to the extent that the recourse to private sector occurs only when 75% of the maximum guaranteed response time (TMRG) is exceeded, which reflects the increased of performance of the NHS units.

In 2013, the number of patients considered for surgery has grown 3.2% compared with the previous year and 42.5% compared to 2006 (8 years), and the number of subscribers for surgery increased by 5.6%, compared with the previous year, demonstrating a better access to surgery. The increased activity has allowed the NHS to have, in 2013, the lowest ever waiting time for surgeries – 2,8 months (for the first time under 3 months). In terms of percentage of subscribers who exceed the TMRG there is a strong reduction (15.3%) in relation to 2012 (year that already had registered a reduction of 4.5% for 2011). The improvement of this indicator enabled to reduce to 12.8% the percentage of patients that were not operated within the times (in 2012, this percentage was 15.1%), also the lowest ever result in the NHS.

External consultation

At the level of primary health care, it can be notice that the use rate of medical consultations increased, allowing that more than 70.330 users had at least one medical consultation in primary health care. Indeed, and for the second consecutive year, more than 7 million users accessed at least to one medical consultation in this period, which allows asserting that in 2013, had the highest rate of use of medical consultations at the level of primary health care, since this indicator is monitored systematically across the country.

There is, however, a slight reduction in the number of medical consultations carried out (-0.27%). On average, each Portuguese had 2.9 consultations with the family doctor, in line with the observed in 2012, and a slight reduction in the number of medical consultations in person (-0.33%) and not in person (-0.21%) covered by a significant growth of the domiciliary medical consultations (4.3%).

On the other hand, in 2013, there were more than 1.8 million nursing consultations at home, representing a growth of 11.3%, compared to 2012. These data indicate stabilization in the number of medical consultations with a progressive growth of home

support. Additionally, the substantial increase in the electronic prescriptions with validity of six months (+4.121.726 renewable prescriptions comparing to the same period) suggest an increased convenience in the use of the services, avoiding unnecessary medical consultations.

At the level of hospital appointments, there is a continuous growth (3.5%), having been held in 2013, more than 339.491 medical consultations in hospital, comparing to the same period in 2012.

As regards the first specialty hospital consultations requested by CSP, through the query system on time, around 73% of the consultations took place at the time recommended for the priority level assigned to the request in hospital screening headquarters, demonstrating an improvement regarding 2012 (70%). In 2013, the average response time to the request for consultation was 120.5 days (122.9 days in 2012) and the median time until the completion of the first query was 80.8 days (81.5 days in 2012). There is still a substantial increase of referencing (111.138 query requests). Despite the improvement in recent years, the indicators for access to hospital consultation remain weak and deserve an on-going attention in terms of the development of access policies.

Oncology

In the area surgical activity concerning malignancies, it can be noticed that the number of patients with cancer operated in one year, in the whole universe of providers, was the largest ever, 44.264 patients (+6.1% compared with the previous year).

The public hospitals showed an increase of surgical activity in patients with malignant neoplasms regarding 2012, of over 6.3%, having been operated the largest number of patients ever, 44.024 patients. Despite this performance, the median waiting time for patients with malignant neoplasms was 1 more day in 2013, regarding 2012. The waiting time for cancer surgeries increased, which reinforces the need to prevent these diseases, to continue to improve the articulation between primary care and medical intervention and to initiate further measures to increase the NHS response given.

In fact, between 2012 and 2013, the percentage of enrolees with malignant neoplasms that surpassed the TMRG presented a growth of 15.7%.

Emergency services

The evolution of emergency services in hospital activity is very dependent on the seasonality of infectious respiratory disease outbreaks and heat waves. Still, and in line with the expectations, in 2013 a stabilization around 6 million emergency consultations in the NHS Hospitals were registered.

Table 13
Number of emergency consultations 2009 – 2013

Year	Number of emergency consultations
2009	6.280.625
2010	6.410.851
2011	6.416.281
2012	5.965.670
2013	6.093.981

Source: ACSS-SICA

In terms of distribution by type of emergency, medical-surgical emergency services (SUMC) are the most attended, followed by multi-purpose emergency services (SUP) and basic emergency services (SUB). These services are dominated by SUB (40), SUMC (30) and the SUP (14).

In terms of Manchester sorting of there is the persistence of excessive number of consultations that could be observed in other less complex levels of care. Measures that promote the reorientation of patients to levels of more effective care should be implemented.

Article 11 § 1

The Committee asks the next report to provide information on the level of co-payments for pharmaceutical products.

In the ambulatory setting, only prescribed medicines can be reimbursed by the National Healthcare System. There are four general reimbursement categories that correspond to a percentage of the price of the medicinal product that is reimbursed by the State.

Table14
Reimbursement categories of medicines, 2010

Reimbursement category	Reimbursement rate	Description
Category A	90%	Essential medicines to treat chronic diseases or life-saving pharmaceuticals (100%), such as cancer and diabetes
Category B	69%	Essential medicines of therapeutic value for the treatment of serious illnesses (such as anti-asthmatic, cardiovascular pharmaceuticals)
Category C	37%	Not priority medicines, with proven therapeutic value (such as anti-infectives, vaccines, immunoglobins, anti-parasitics)
Category D	15%	New medicines whose therapeutic value is not yet proven. It is a transitional category (created in 2000).

Reimbursement category = e.g. Class / Category A, B, C
Description = which type of medicines belong to this group and the inclusion criteria.
Source: INFARMED
Fixed co-payments, like prescription fees, do not exist in Portugal.

Medicines can only be reimbursed if they are prescribed by physicians (either in the private or public sector), and if they belong to the pharmacotherapeutic groups and

subgroups included in each reimbursement category are pre-defined in legislation (Portaria no. 924-A/2010, de 17 September). These base co-payment rates were set accounting the importance of the medicines to life maintenance and the level of the disease (chronic disease).

Medicinal products integrated a positive reimbursement list if they comply with the previously mentioned requisites, and after undergoing a reimbursement procedure where its relative efficacy and economic value is attested (Annex I of Decree Law no. 48-A/2010, 13 May).

There are also special regimes of reimbursement that are defined in legislation:

- Pensioners with low income (i.e whose income is lower than 14 times the guaranteed monthly minimum wage or 14 times the value of the index of social support) are entitled to an increment of the general reimbursement level of 15% for categories D, C and b and of 5% for category A.
- The reimbursement of pharmaceuticals used in defined some pathologies or special groups of patients can be object of a special regime regulated in special legislation. Generally this corresponds to an increment of the general reimbursement level.
- Essential life-maintaining medicines (insulin and immunomodulators) reimbursed at 100%.

For medicines include in the reference price system, the general reimbursement rate can only be applied till the reference price (the price that the NHS reimburses the patient). If the patient buys a pharmaceutical that costs more than the reference, he/she will have to pay the difference between the reference price and the pharmacy retail price.

For pensioners with low income, the reimbursement rate is increased to 95% for medicines included in the reference price system, whichever the general reimbursement rate is, but only if their pharmacy retail price is below the reference price.

Article 11 § 1

In its last examination of this provision, the Committee adopted a general question addressed to all States on the availability of rehabilitation facilities for drug addicts, and the range of facilities and treatments. The Committee requests that information be included on this issue in the next report.

The public facilities for drug addicts and persons with dependencies are organized as a referral network that promotes the access of patients to care and to services.

This network defines the relations of complementarity and technical support among public institutions, and tries to enhance the enlargement and integration of care, according to the real needs of the populations, in terms of the additive behaviours and dependencies.

The network includes public health services, the different systems that deal with these persons (Social Security, Education, Public Security, and Justice) and also private entities that play an important role in the treatment of addictive behaviours and dependencies.

The implementation of this network guarantees that the citizen with problems linked to additives behaviours and dependencies (CAD) access to integrated health care, benefiting for services in every moment.

Also important for the structure of the network are different kinds of instruments:

- National Health Plan 2012-2016
- National Plan for the Reduction of Additive Behaviours and Dependencies 2013-2020
- National Plan for the Reduction of Alcohol-related Problems 2010-2012
- National Mental Health Plan 2007-2016
- National Programme for the Prevention and Control of Smoking 2012-2016

The principles that rule the provision of integrated care to citizens with dependencies are as follows:

- Centrality in the citizen
- Accessibility
- Severity of consumption and behaviours
- Territoriality
- Functional Differentiation
- Available Resources

The design and implementation of the network is focused on citizens and their real needs, in coordination with rational criteria that mobilise appropriate technical and human resources to the implementation of effective interventions that respond to their health problems, in terms of specificity and complexity and degree of seriousness.

The presentation of these issues can be manifested by various alarm signals, like changes in the behaviour and somatic pathologies, going through situations in which may already be evident dysfunctional patterns of consumption (low-risk consumption and risk) – Level I.

Increased severity, with situations in which become evident the harmful consequences directly related to the existing consumption pattern: harmful consumption, polydrug use or even dependence. Associated with these patterns of consumption, arise often risk behaviour in various spheres of individual functioning (health, sexuality, family, social), as well as diverse pathologies associated with this dysfunctional pattern (co-morbidities) – Level II.

The dependency takes serious characteristics, the incursion by other intakes recrudesce, being an increase of probability of emergence/aggravation of co-morbidities (severe psychopathology) – Level III.

The establishment of a public network of health services structured in different levels of intervention intends to leverage synergies of action, citizen-centred approach logic,

to avoid fragmentation of care. This referral network was structured in three levels of intervention described above.

The treatment process may occur:

- In primary health care – functional units

Aim at the assessment, early detection of additive behaviours and dependencies, in particular of their severity level. From this diagnosis, in terms of intervention, is foreseen the possibility of brief interventions when the assessed level of risk is low. When there is a more serious situation (risk consumption, harmful consumption, addiction), these consultations should result in referral through the family doctor, for specialized health care under the additives behaviours and dependencies.

- In specialized health care units

The intervention in specialized units, determines an initial assessment by a physician/ psychiatrist. Often evaluations in the area of psychology, social work and nursing are equally important and required. This service constitutes the core of integrated therapeutic intervention: after the establishment of the relationship with an experienced professional, there is regular monitoring of the person to assess the consistency of therapeutic process and the reacquisition of skills and competencies.

During the process other interventions may occur with other therapeutic modalities, as the logic of integrated model:

- Day care centres: supporting services, very important to treatment and reintegration in different phases of the therapeutic project aimed at resocialization, personal development, acquisition of social skills, training. The day care centres are indicated primarily for users dependent on licit or illicit substances in withdrawal phase, with insufficient family support or non-existent, even without social reintegration project and therefore very vulnerable users from an emotional point of view. When a more specific and specialized intervention is needed, there are available other type of treatment facilities, which may imply periods of hospitalization.

- Withdrawal units: units of short hospitalizations (7 to 10 days and can go up to 20 days in cases of associated comorbidity). Through a psychopharmacological approach of psychotherapeutic and health education, promotes the treatment of withdrawal syndrome in users who do not have individual or social conditions to outpatient. In these units, it is still the stabilization/dose adjustment/transfer/discontinuation of opioid agonist treatment programs, as well as the treatment and stabilization of psychiatric and medical associated slight comorbidity.

- Specialized units of residential long-term treatment (usually with duration of 3 to 12 months). These units are residential facilities, aimed at promoting the biopsychosocial rehabilitation of the person by means of a therapeutic program coordinated in different stages, with the community dynamics that distinguishes this from other treatment approaches. To respond more appropriately to the problems of the most vulnerable groups in the context of treatment, in the therapeutic units, specific programmes are implemented and have different

levels of social rehabilitation: young, pregnant, alcohol addicted users with severe mental illness, prolonged evolution users.

- Alcohol units: units specialised in the treatment of disorders related to alcohol that need more differentiated and integrated care. In cases of polydrug use, Alcohol units give support in situations where alcohol consumption is prevalent.

- Mental health services: when there is a need for more differentiated and specific interventions, particularly when more serious psychiatric conditions occur, associated to the consumption of substances. These services offer a multidisciplinary model.

The most specific interventions on this issue exist in the Centres of Integrated Services (CRI). In these units, and according to the integrated model, there are specialized technical teams, within the areas of intervention Treatment Prevention, risk reduction and harm Minimization and reintegration. These centres are spread across all districts of the country, ensuring national coverage.

There are 43 treatment teams and 43 insertion teams at national level, established in local units (CRI). Consultations by the treatment teams usually take place in the Centres of Integrated Services but they may also travel to more isolated areas to treat patients. The public services include detoxification units, therapeutic communities, alcohol units and day care centres.

The national network of treatment and rehabilitation includes also private institutions which sign agreements with the State, to provide special services which public do not provide. The data concerning the services part of the public services for 2012, can be synthesized as follows:

Table 15
Public network: resources for treatment and insertion, 2012

Units for treatment and insertion		Public	Private	Total
Treatment	Teams	43	-	43
	Consultation	22	-	22
	Alcohol units	3	-	3
	Withdrawal units	4	6	10
	Specialized units of residential long-term treatment	2	65	67
Insertion	Insertion teams	43		43
	Day care centres	2	8	10

Source: SICAD

Article 11 § 2

The report provides no information on measures adopted in the field of environmental health. The Committee therefore asks the next report to include updated information on the main regulations/legislation in the field of environmental protection, namely for the protection of air quality, water safety, noise, as well as in the areas of ionising radiation, asbestos and food safety. It also wishes to receive information on the levels of air pollution, as well as on cases of water and food intoxication during the reference period. Meanwhile, the Committee reserves its position on this point.

The general direction of health (DGS) has a direct participation in drafting of legislation of ionizing radiation and asbestos. Regarding the air quality legislation, the DGS only participates in the definition of the criteria for the indoor air quality and does not intervene in other components.

Regarding ionizing radiation:

As mentioned in the report, the national legal framework in the field of protection against ionizing radiation is based on two European Directives:

- 96/29/EURATOM Directive – establishes basic safety requirements for employees and members of the public. This directive was transposed into national law by the following decree-laws: DL 165/2002, DL 167/2002, DL 174/200, DL 180/2002, DL 222/2008, DL 227/2008. The publication of Decree-Law 227/2008 has completed the transposition of this directive.

- 97/43/EURATOM Directive – establishes the following criteria in medical exposure of patients to ionizing radiation, for purposes of diagnosis or therapy. This Directive was transposed by Decree-Law 180/2002, which regulates exposure to ionizing radiation, with medical purposes.

In addition, the Directive 2009/71/EURATOM and 2011/70/EURATOM, referring respectively to nuclear safety and the safe management of radioactive waste were transposed. The transposition of these two Directives was through the Decree-Law 262/2012, 262/2012 and 156/2013. These Decree-Laws established the Regulatory Commission for the safety of nuclear equipment as the competent authority for nuclear safety and radioactive waste management.

The transposition of Directive 2013/56/EURATOM, which replaces the previous Directives 96/29/EURATOM and 97/43/EURATOM, which are at the base of the national regulatory system, will start soon. This process of transposition, which may be extended until 2018, will entail a profound recasting of the existing regulatory system.

Regarding asbestos and indoor air quality:

- Asbestos

Regarding the protection of human health, with the entry into force in January 2005, of the Directive 1999/77/EC (transposed into the internal legal order by Decree-Law 101/2005), was totally prohibited the use and sale of asbestos fibres and products containing these fibres.

Later, with Decree-Law 266/2007 that transposed into the internal legal Directive 2003/18/EC, limit values of exposure of workers to asbestos were established, and the obligation of notification to the Authority for Working Conditions on the exercise of activities where the worker is, or can be, subject to exposure to dust or particles of asbestos or materials containing asbestos, among which are the activities of removal, transport, treatment and disposal of wastes containing asbestos.

Regarding the management of construction and demolition waste containing asbestos the bill 40/2014 establishes detailed rules for the correct removal of materials containing asbestos and for packaging, transport and management of their respective construction and demolition waste, taking into account the protection of the environment and human health.

- Indoor air quality

The Decree-Law 118/2013, which approves the system of energy certification of buildings, the Regulation of energy performance of buildings and Regulation on the energy performance of trade and service buildings, introduced some changes in the field of indoor air quality:

1. Article 12 assigns competences to the General Direction of Health and to the Agency of Environment to monitor the implementations of the diploma in the field of indoor air quality;
2. Article 36 determines the publication of bill 353-A/2013
   The bill 353-A/2013 establishes the minimum air flow values for spaces, as well as the levels of protection and reference conditions for indoor air pollutants of new services and commercial buildings subject to intervention and existing large and its assessment methodology.

Article 11 § 2

The Ministry of Health approved the National Programme for Accident Prevention in 2010. The report mentions several projects and campaigns on child injury prevention, road safety and home accidents involving elderly persons. The Committee asks to be kept informed on the implementation and results of the different initiatives mentioned to prevent accidents.

Partnerships with MAPFRE Foundation, DOREL Portugal, University of Aveiro, University Nova, Medical University, Health Schools and other institutions were consolidated. Within the framework of the project "children and young people safe" was organised training to health professionals working in health centres and in maternities, on child restraint systems and child safety education. 215 health professionals were trained. Currently 45 projects on "children and young people safe" are being developed.

Within the framework of the project "more carefully – prevention of household accidents with elderly" training courses on domestic accidents with special mention to the falls were delivered to health professionals working in health centres. 169 health professionals were trained.

Risk assessment instruments were developed, namely guides for professional, guides for the elderly, brochures, CD-ROM.

Currently 20 projects are in development dealing with different subjects such as: prevention of accidents of elderly, assessment of functional capacities, nutritional evaluation, individual fall risk assessment, awareness raising of the elderly for the prevention of accidents and falls, promotion of physical activities, training of activities of daily living, cognitive stimulation, gymnastics, dance and aerobics, training of caregivers, awareness of managers of elderly institutions and support to the families.

Article 12 § 1

The Committee notes that the personal coverage of social security risks is satisfactory and asks the next report to provide updated information regarding the number of persons protected against income-replacement benefits (old age, unemployment and sickness) out of the total active population and the number of persons covered by healthcare out of the total population.

Table 16
Numbers of pensioners of the social security system

Thousands

Pensioners (31 december)	General System (a)						Special System for agriculture workers						Non-contributory system and similar systems					
	2008	2009	2010	2011	2012	2013	2008	2009	2010	2011	2012	2013	2008	2009	2010	2011	2012	2013
Invalidity	245,5	240,2	232,6	226,0	220,6	210,9	8,1	7,5	7,2	7,0	6,5	5,7	48,9	49,5	49,6	49,7	50,0	50,3
Old age	1.593,0	1.646,8	1.701,6	1.763,9	1.819,1	1.859,6	199,5	184,3	169,4	155,6	141,5	129,3	34,5	33,7	32,6	31,6	30,6	29,9
Survival	609,3	621,6	631,1	641,3	648,7	655,0	76,1	72,7	69,2	65,6	61,8	58,0	2,8	2,9	2,9	2,9	2,9	2,9

Source: Ministry of Solidarity, Employment and Social Security - Centro Nacional de Pensões

a) Includes pensioners in the volunteering regime system

Table 17
Number of beneficiaries with benefits, by year

(Thousands)

Benefits	Number of beneficiaries					
	2008	2009	2010	2011	2012	2013
Parental benefits (*)		96,6	178,0	178,9	167,5	156,4
Sickness benefits	553,1	589,5	549,8	552,2	496,9	476,4
Unemployment benefits	458,2	549,9	584,1	554,5	641,4	657,8

Source: Ministry of Solidarity, Employment and Social Security - Centro Nacional de Pensões

Article 12 § 1

In this connection, the Committee recalls that under Article 12§1 there should be a reasonable initial period (e.g. three months) during which a worker should be able to refuse an unsuitable job offer without losing entitlement to unemployment benefit. The Committee asks what rules apply in this regard following the amendments implemented.

If an unemployed worker receiving unemployment benefit refuses a suitable job offer, loses the entitlement to this benefit, with the exception of an annual period of 30 days in which he/she is allowed to refuse such an offer.

On the other hand, despite the amendments implemented in 2010 regarding the concept of suitable employment, an unemployed worker can always refuse an unsuitable job offer during the period of receipt of the unemployment benefit, without losing the entitlement to this benefit.

Article 12 § 1

The Committee considers that the IAS amount is adequate as it is above the 50% of the Eurostat median equivalised income. However, the Committee asks under what circumstances the reference wage may fall below the IAS level.

The net reference wage of the unemployment benefit may be lower than the IAS value in some activity sectors that pay low wages or in some part-time job situations.

Article 12 § 1

The Committee asks whether this signifies that all persons earning the minimum pension would get a top up to the level of € 409, or in other words whether the minimum level of contributory pension in any event amounts to € 409, including the supplement.

Not all beneficiaries of minimum pensions from the general regime are entitled to the Solidarity Supplement for the Elderly (CSI), which, unlike the minimum pensions, is a non-contributory benefit subject to means-testing.

Only pensioners in a proven economic need situation are entitled to the Solidarity Supplement for the Elderly (CSI), considering that it is possible that pensioners have other types of relevant income (capital income, property income, among others), apart from the minimum pension amount, to take into account in the means-testing assessment for the CSI granting.

If the Solidarity Supplement for the Elderly (CSI) was granted to all minimum pension beneficiaries, regardless of their financial condition, there would be the risk of allocating social solidarity resources to those who are not in a proven vulnerable situation.

Article 12 § 1

The Commitee asks what are the minimum levels of maternity and invalidity benefits.

Minimum amount of parental benefits: a daily allowance that corresponds to 80% of 1/30 of the IAS (social support index = €419.22). For the extended parental benefit: 40% of 1/30 of the IAS.

Minimum amount of the invalidity pension of the general system: the beneficiaries are entitled to a minimum of 30% of the reference earnings. However, the amount of the invalidity pension can not be lower than the following minimum amounts fixed by law, according to the contribution period and the type of invalidity of the beneficiaries:

Relative invalidity: the minimum amount is indexed to the social support index (€419.22).

The percentages vary according to the contribution period:

- Minimum for pensioners with up to 15 contributions years: 61.86% of the IAS indexing reference per month (€ 259,36).
- Minimum for pensioners with 15 to 20 contributions years: 65.54% of the IAS indexing reference per month (€ 274,79).
- Minimum for pensioners with 21 to 30 contributions years: 72.33% of the IAS indexing reference per month (€ 303,23).
- Minimum for pensioners with more than 30 contributions years: 90.41% of the IAS indexing reference per month (€ 379,04).

Absolute invalidity: the minimum amount corresponds to the minimum amount of a relative invalidity pension and an old-age pension with a contribution career of 40 years.

These percentages are also applied to the invalidity pensions granted by the special protection system in case of invalidity resulting from certain diseases.

Article 13 § 1

It asks the next report explicitly to confirm that these benefits are available to people whose RSI has been suspended for not accepting a suitable employment offer.

The social action subsystem cash benefits continue to be available to people whose RSI has been suspended for not accepting a suitable employment offer; however it should be noted that the entitlement to these benefits is not a subjective right of the beneficiaries. The social action subsystem cash benefits are of eventual nature and granted in exceptional conditions, according to the social diagnosis of the social welfare officer about the vulnerability situation of the individual or family.

Article 13 § 1

As regards medical assistance, the Committee previously noted (Conclusions 2006) that people in need were exempted from the national health service fees and asked

whether this continued to apply when the RSI is withdrawn for failure to comply with the integration scheme. It reiterates this question and holds that, if the next report doesn't provide information in this respect, there will be nothing to establish that medical assistance is provided free of charge to all persons in need.

The rules for the recognition of economic need for the exemption of user fees payment are set by the Ministry of Health and not the result of the beneficiary's entitlement to the Social Integration Income (RSI). However, it should be noted that the legal framework of the RSI does not establish the loss of the right to exemption of user fees payment in the event of non-fulfilment of an integration contract. Therefore, the former RSI beneficiaries were exempted from user fees payment due to the recognition of their economic need situation and, according to the established rules, may maintain the right to the respective exemption if their economic need situation continues.

Article 13 § 2

In the light of the clarification above, the Committee asks the next report to confirm that no restrictions apply, in law or in practice, to the social and political rights of beneficiaries of social assistance.

The guiding principles of the social action subsystem operating rules are: the prevention and remediation of situations of socio-economic need and inequality, dependency, dysfunction, social exclusion or vulnerability, as well as community integration and promotion and the development of people's capabilities, in order to ensure the full enjoyment the citizens' basic rights. From this point of view, within the scope of social action, there are no restrictive rules in what concerns the beneficiaries' social and political rights.

Article 13 § 3

In the light thereof, the Committee reiterates its question as to what means (in terms of staff and budget) are provided to social services dealing with persons without adequate resources or at risk of becoming so and whether such means are sufficient to give appropriate assistance as necessary.

The entitlement to social responses is universal, with no exclusion criteria in the access to social services. However, according to the legislation, and more specifically in what concerns the conclusion of cooperation agreements between the State and Private Social Solidarity Institutions, Order no. 75/92 of 20 May specifies that the conclusion of agreements requires assumptions such as the acceptance of the principle that priority should be given to families, groups and individuals that are in a more disadvantaged economic and social situation; and, in this sense, the State's co-responsibility is considered in terms of financial and technical support to encourage the development of the social institutions' activities and services.

In this perspective, the institutions must ensure to their users the necessary conditions to their well-being and respect human dignity through the provision of efficient and adequate services, promoting the users' participation in the social facilities activities.

The institutions must also ensure that they have human resources adequate to the proper functioning of the social facilities and services.

As it is legally established, the relationship between the State and the institutions at the cooperation level depends on specific budgets; thus, sometimes when there is lack of specific financial allocations in the budget programme, it is necessary to guarantee services' provision within the scope of social risks, by ensuring some basic needs to the most disadvantaged people, on the fringes of social responses. An example of this is the Food Emergency Programme integrated in the Solidarity Network of Social Canteens, aimed to ensure that the most disadvantaged people and/or families have access to free meals in/or outside the institutions, as set out in the Cooperation Protocol 2011-2012, signed by the Ministry of Solidarity, Employment and Social Security, the Union of Portuguese Mercies, the Union of Portuguese Mutualities and the National Confederation of Solidarity Institutions.

Within the scope of this Programme, during the third quarter of 2014, 851 protocols for social canteens were concluded, establishing the provision of 49.403 meals at the national level.

Article 13 § 4

The Committee reiterates therefore its request to provide information in the next report concerning emergency social assistance to foreign nationals in irregular situation.

We reiterate the information that «emergency accommodation is provided regardless of whether these foreign nationals are in irregular situation in the country or not», we also reiterate the answer to question no. 31 - 13 § 4, i.e. that social support is always granted to citizens who are in irregular situation in the country and in a social emergency situation.

The Portuguese Republic Constitution establishes that everyone is entitled to health protection and has the duty to defend and promote it (Article 64(1)).

Article 31(5) of the legal framework of entry, permanence, exit and removal of foreigners into and out of the national country, approved by Law no. 23/2007 of 4 July, as amended by Law no. 29/2012 of 9 August, under the heading "entry and exit of minors," stipulates that unaccompanied minors who await decision on their admission in the national territory or on their repatriation must be entitled to all material support and necessary assistance to fulfil their basic needs of food, hygiene, accommodation and medical assistance.

Similarly, holders of residence permits granted in accordance with Article 109[2] of Law no. 23/2007 of 4 July, who lack sufficient resources and have specific needs, such as minors or pregnant women, disabled people, victims of domestic violence or other

[2] Residence permit is given to foreign citizens who are or have been victims of penal infractions connected to human trafficking or illegal immigration, even if they have illegally entered the country or do not fulfil the conditions for residence permit granting.

forms of violence, are entitled to the necessary medical and social assistance, as provided for in Article 113 of the same Law.

The removal of foreigners from the national territory can only happen in duly justified situations according to Articles 134, 135, 136 and 137 of Law no. 23/2007 of 4 July (taking into consideration that it can only happen when the negative delimitation of Articles 135 and 136 which protect foreign nationals is not fulfilled [3]).

Article 169(1) of Law no. 23/2007 of 4 July, as amended by Law no 29/2012 of 9 August, establishes that decisions on removal taken by the competent administrative authority of a Member State of the European Union or a State Party in the Application Convention against a third-country national who is in national territory are recognised and enforced, provided that the removal decision is based upon a serious and existing threat to public policy or national security of the State author of the decision or in the non-compliance by the concerned third State national of the regulation concerning the entering and staying of foreign citizens of the State author of the removal decision.

Therefore, whenever the Immigration and Borders Service (SEF) provides for the removal of a third State national by airway, in accordance with Article 173 and following Articles of Law no. 23/2007 of 4 July, as amended by Law no. 29/2012 of 9 August, it is the competent service to undertake any airport transit support measures in accordance with Article 177 of the same Law, including the provision of emergency medical treatment to the third State national and, if necessary, to his/her escort, as well as to ensure the provision of food to the third State national and, if necessary, to his/her escort.

Also, Article 180-A of Law no. 23/2007 of 4 July, as amended by Law no. 29/2012 of 9 August establishes that, in what concerns the application of removal decisions, the Portuguese State organizes or participates in joint flights for the removal of third States nationals, subject to a coercive removal decision or judicial deportation from the territory of two or more Member States. On this subject, it is important to highlight the rule established in paragraph 4 of the same Article, under which the organizing national authority is responsible for the provision of adequate healthcare, medicines, translation assistance and escort services, in accordance with the principles of need, proportionality and identification.

It is also important to underline the concern to ensure medical and social assistance to foreign nationals: according to Article 122(1)(g) of Law no. 23/2007 of 4 July, as amended by Law no. 29/2012 of 9 August (residence permit without residence visa), third States nationals who suffer from a disease that requires prolonged medical care that prevents their return to the country to avoid health risks, do not require a visa to obtain a temporary residence permit.

[3] As an example, in accordance with Article 135, foreign citizens cannot be sent off from the country (except in cases of offence to national security or public order - Article 134(1)(c)(f)) if they were born in the Portuguese territory and usually reside in this country, or are responsible for minor children, of foreign or Portuguese nationality, residing in Portugal, and over who they have parental responsibilities, or live in Portugal since less than the age of 10 and usually reside here.

Article 14 § 1

The Committee wishes the next report to indicate whether a right of appeal to an independent body in urgent cases of discrimination and violation against human dignity does exist.

Citizens have the right of appeal to an independent body in urgent cases of discrimination and violation of human dignity, which is, in this case, the Ombudsman, a National Human Rights Institution with the power to act on its own initiative, thus contributing to the best possible alignment of the Portuguese law and practice with the international law on human rights, as well as the recommendations issued by international bodies that monitor the respect for these rights.

Article 14 § 1

The Committee notes from the report that the legislation on labour law ensures the protection of personal information of staff. In addition, the Committee wishes to know whether there is a legislation on personal data protecting the right to privacy of users.

In what concerns this issue, there is the Law on personal data protection (that transposes into the Portuguese legal system the Directive 95/46/EC of the European parliament and of the council of 24 October 1995 on the protection of individuals with regard to the processing of personal data and on the free movement of such data), whose general principle defines that the processing of personal data shall be made in a transparent manner and in strict respect for private life as well as for the human fundamental rights, freedoms and guarantees.

Article 14 § 2

The report fails to indicate the total number of volunteers and their qualifications, therefore, the Committee reiterates its request. If this information does not appear in the next report, there will be nothing to show that the situation is in conformity with Article 14§2.

In what regards this issue, the National Council for Volunteering Promotion is responsible for monitoring the implementation of legal regulation that focuses on volunteering and it is also responsible for the proposition of measures adequate to the improvement and development of volunteering activities.

In terms of social responses' operation, in the applicable legislation and regulations in force, it is established that social services can operate with the use of trained and qualified volunteers, according to volunteering legislation in force.

Article 14 § 2

In the absence of information concerning discrimination, the Committee wishes to know whether and how the Government ensures that the services managed by the private sector are effective and accessible on an equal footing to all, without

discrimination at least on grounds of race, ethnic origin, religion, disability, age, sexual orientation and political opinion.

The access to social responses within the scope of the solidarity area or of the profit oriented sector is constrained by the discriminatory factors mentioned in point 36. These principles of non-discrimination and access on equal terms to all people are enshrined in the Portuguese Republic Constitution and are provided for in the legislation and regulations in force applicable to social responses. According to these rules, the drafting of internal regulations is essential to the social responses' operation and its posting in a visible place is mandatory. The internal regulations are analysed by the ISS, IP services to prevent that they contain, among other assumptions, any discrimination on grounds of race, ethnic origin, religion, disability, age, sexual orientation and political opinion.

Article 23

The Committee previously asked whether anti-discrimination legislation to protect elderly persons outside the field of employment existed or whether the authorities planned to legislate in this area. No information has been provided on this issue in the report. Therefore the Committee concludes that no such legislation exists and that the situation is not in conformity with the Charter in this respect.

See response to the conclusion of non-conformity concerning Article 23, in the sense that, in the social security sector, there is no specific anti-discrimination legislation based on age.

Although, there is no specific anti-discrimination legislation to protect the rights of elderly people, there are different laws promoting an increased protection of the elderly or people in a dependency situation.

There is also protection in terms of access to/integration in social responses, considering that the different laws regulating social responses establish that the conclusion of service provision contracts is mandatory.

An example of this is the legislation that regulates the Residential Structures for the Elderly (Ministerial Order no. 67/2012 of 21 March) establishing in its Article 10(1) that "accommodation and services provision contracts established with the residents and/or their families, or with the legal representative, when there is one, shall be made in writing and shall include the rights and obligations of the parties". In this sense, within the scope of institutions' monitoring and inspections, when it is verified that the legal requirements are not being met, the motives are evaluated and the procedures are adjusted to each specific situation.

Article 23

It further asked for information on the legal framework related to assisted decision making for the elderly, and, in particular, whether there are safeguards to prevent the arbitrary deprivation of autonomous decision making by elderly persons. Again no information is provided in the report on this issue. The Committee repeats its request

for information and refers to its interpretative statement in the general introduction in this respect.

We highlight that some social responses that deal more directly with the elderly, namely the residential structures for the elderly (ERPI) and the home support services (DSS), operate according to the principle of participation and co-responsibility of the user, or his/her Legal representative, and his/her families, in the preparation of the individual care programme, respecting the elderly people autonomy.

In situations where the person is not capable of managing his/her life and property, i.e. to make his/her own decisions, a legal action must be filed with the Public Ministry to take a decision on the person's interdiction/inability

Finally, it should be noted that in what concerns this issue, Portugal is in the process of ratification of the Hague Convention of 13 January of 2000 on the International Protection of Adults (approved by Parliament resolution no. 52/2014 of 19 June).

Article 23

The Committee therefore wishes to receive clarification of the situation; it asks whether this signifies that all persons in receipt of the social pension would get a top up to the level of € 409. The Committee holds that if this information is not provided in the next report, there will be nothing to establish that the situation is in conformity as concerns the social pension.

Not all old age social pension beneficiaries are automatically entitled to a top up to the level of € 409. The entitlement to the maximum value depends on supplements granted under certain conditions.

Specifically, old age social pensions may be accumulated with the following benefits:

- the Solidarity extra supplement (paid automatically; it depends on the beneficiary's age);
- the Long-term care supplement (for pensioners who need the help of another person to satisfy their basic needs of everyday life);
- the Social integration income (for people and families in serious economic need);
- the Solidarity supplement for the elderly (for people aged 66 and with low resources);
- the Widow's/widower's pension (the sum of the old age social pension and the widow's/widower's pension amounts cannot exceed € 259,36 in 2014 – this amount corresponds to the invalidity and old-age minimum pensions of the Social Security general scheme).
- the Survivor's pension (for family members of a deceased beneficiary), if the survivor's pension is lower than the old age social pension amount (€ 199.53 in 2014). In this case, the sum of the old age social pension and the survivor's pension amounts cannot exceed € 259.36 in 2014 – this amount corresponds to the invalidity and old-age minimum pensions of the Social Security general scheme.
- Income from employment, income from scholarships, benefits for attending vocational training or incidental income, provided that such income is not lower than the previously mentioned limits set for 2014: € 167,69 per month for a single

person or € 251,53 per month for couples (40% or 60% of the Social Support Index, respectively).

The means-testing reference value for the Solidarity Supplement for the Elderly (CSI) granting is higher than the means-testing reference value for the social pension granting, thus, a high percentage of social pension beneficiaries are also entitled to the CSI.

However, since there is no uniformity in the income considered relevant to the means-testing assessment for these social benefits granting, which differs according to the benefit to be granted, there may be some cases where social pension beneficiaries are not entitled to the Solidarity Supplement for the Elderly. For example, income of the elderly person's sons and daughters, as well as a percentage of the movable assets and property income (except for the elderly person's residency) are relevant to the means-testing assessment for the Solidarity Supplement for the Elderly granting, but are not relevant for the social pension granting; consequently, some of the social pension beneficiaries may not be entitled to the Solidarity Supplement for the Elderly.

Article 23

The Committee asks for more information about Government's action in this area, in particular whether and how the Government evaluates the extent of the problem, and if any legislative or further measures have been taken or are envisaged in this area.

Between 2011 and 2014, the Social Security Institute was partner of the Ageing and Violence project, financed by the Science and Technology Foundation and coordinated by the Epidemiology Department of the National Health Institute Dr. Ricardo Jorge, IP The other partner entities of this project were: CESNOVA of the Social and Human Sciences Faculty of the Lisbon University UNL (CESNOVA/ FCSH); the National Institute of Legal Medicine and Forensic Sciences, IP (INMLCF, IP); the Portuguese Association for Victim Support (APAV); and the National Republican Guard (GNR).

This project was aimed to estimate the number of violence victims in the population aged 60 and over, residing in Portugal, as well as to examine the logic and conditions in which these situations occur in the family life context.

The project comprised two separate studies: a population-based study on violence and a study on violence victims. It was estimated that 12.3% of the population aged 60+ was a victim of at least a violent behaviour by a family member, friend, neighbour or paid professional.

The financial violence and psychological violence stand out from the five types of violence assessed (financial, physical, psychological, sexual and neglect), both with a prevalence of 6.3%.

Only a third of the victims has reported or made a complaint about the violence experienced.

These two studies show the importance that this problem has in the Portuguese society and the results demonstrate that violence victims in the community are mainly

victims of their families, either extended or nuclear families. Family ties, family protection and the fear of reprisals are strong reasons for the violence victims' silence and complaint is still a taboo for many of them.

In this sense, it is important to give social visibility to this problem which, apart from being a social problem with impacts on health, it is also considered as a serious violation of human rights. In this context, it is imperative to reflect on a set of recommendations that contribute to the combat and prevention of this problem. Therefore, we highlight some of the recommendations made on this subject:

- The coordination between the different state sectors that intervene in violence situations against older persons;
- The creation of a legal framework that safeguards the victim's rights and foresees intervention measures towards the aggressor, with the cooperation of the health, judicial, internal administration, social security systems, support networks/NGOs and the education system;
- The promotion/conducting of awareness raising and information actions on this subject aimed at different audiences, including elderly people;
- The qualification/training of the several professionals that provide services and support to the target population, in terms of prevention, detection and intervention measures in situations of violence against elderly people;
- The development of a common and standardized assessment system (risk assessment) to be used by the stakeholders;
- The development or adaptation of the responses aimed at the elderly victims of violence considering their specific situations (marital violence between elderly people, violence from sons/daughters);
- Te creation of action protocols/the case manager figure/formal intervention networks to deal with violence situations at the local level.

However, there is no information of whether there is any proposal for the establishment of legislative measures in this area.

Article 23

The Committee previously asked how the quality of services is monitored, and which channels exist for elderly persons to complain about services. It repeats its request for this information.

The quality of services provided is monitored through technical monitoring visits to institutions that provide social support services aimed at elderly people. These institutions can only provide support if they comply with the mandatory requirements specified in legislation that regulates these responses and in the institutions/profit-oriented entities' internal regulations, as well as in the service provision contracts concluded with the social responses' clients and according to internal guidelines set by the Ministry of Solidarity, Employment and Social Security (MSESS) services.

Some institutions provide more services than the ones established by the legislation in this area and the quality of services is measured by quality management implementation programmes of the solidarity sector and their implementation mechanisms are monitored and evaluated by independent external entities.

Article 23

The Committee asks whether in general the supply of home help services for the elderly matches the demand for them. Furthermore, it wishes to know whether there is a charge for any of these services.

It is important to clarify that the different social protection measures stated in the report are social responses aimed at the elderly and/or persons in a dependency situation, with the guiding principle of maintaining their homes; these responses may be provided by the following social services and facilities:

Services:
- Home Support Service (SAD)
- Integrated Home Support Service (ADI)
- Family Accommodation for Elderly People and Adults with Disabilities

Facilities:
- Residential Structures for the Elderly
- Day Centre
- Leisure Centre
- Night Centre
- Integrated Support Units (UAI)

Social responses within the scope of solidarity are supported by the State and implemented by private non-profit institutions (private social solidarity institutions – IPSS -, or similar institutions) through the establishment of cooperation agreements and this is the cooperation model that protects situations of greater social vulnerability and poverty.

It should be stressed in this regard that social responses developed by the solidarity sector are monitored and evaluated by the State and social responses carried out by the private sector are licensed and supervised by the same public body (point (q) and (r) of Decree-Law no. 83/2012 of 30 March, concerning the Social Security Institute, IP duties).

In Portugal, there are 2.422 home support service social responses, covering 70.119 persons (solidarity sector) and 216 facilities of the private sector, covering 7.832 persons. This social response has a reasonable coverage rate in the country; therefore, the increase of the home support services' number is not considered as a priority

In what regards the solidarity sector, i.e. social responses with cooperation agreements, in accordance with regulations and guidelines on this subject, the user pays a certain amount (co-payment) for the type of services provided by this social response, according to the number of services provided and to his/her household income.

Article 23

The Committee also asks for information on any services or facilities (such as respite care) for families caring for elderly persons, in particular highly dependent persons, as

well as on any particular services for those suffering from dementia or Alzheimer's disease.

In what concerns this issue, it is important to underline the establishment of the Caregiver's Rest provision, created under the National Network for Integrated Continuous Care that enables the internment of elderly or dependent persons in temporary situations arising from difficulties of family support or from the need of the primary caregiver to rest. In the Algarve, Long Term and Continuous Care Units have a place available in each Unit to respond to requests within the scope of the caregiver's rest.

Within the scope of Residential Structure for the Elderly (ERPI), Day Centre and Home Support Service social responses, there are some facilities whose intervention is targeted exclusively to people with Alzheimer's disease, although the number is not very significant.

In what regards dementia in general the above mentioned social responses provide services aimed at people in this conditions.

Article 23

The Committee asks the next report to provide comprehensive information on the housing situation of elderly persons, including information on subsidised housing financial assistance for housing costs as well as for the adaptation of homes.

The Comfort Housing Programme for the Elderly (PCHI) was created by Order no. 6716A/2007 of 5 April, as amended by Order no. 3293/2008 of 11 February and it is aimed to housing rehabilitation in order to improve basic living conditions and mobility of the elderly who benefit from home support services, thus, to prevent and avoid their institutionalization.

Housing rehabilitation is carried out through interventions at the level of houses and equipments that, according to the elderly person's situation, are considered essential to his/her mobility and comfort.

People aged 65 and over whose per capita monthly income is equal to or lower than the Social Support Index (IAS) value may benefit from the PCHI, provided they meet the following requirements simultaneously:

- Live in their own house or live in a house on a permanent basis for at least 15 years and the house is stated in the land register on his/her name; or live in a house, without payment, for at least 15 years and that house is not stated in the land register in the name of a third party and needs rehabilitation works according to the person's situation and need;
- Benefit from home support services, attend Day Centre social responses or when the provision of these services depends on housing rehabilitation;
- Live alone or live with other elderly person(s), family member(s) with disabilities, minor(s) or people aged over 18 provided that they are studying and do not receive work income or income replacement benefits.

The PCHI is implemented in mainland Portugal in partnership with the Social Security Institute, IP (ISS, IP) and municipalities through 12 month cooperation agreements that may be renewed for a similar period.

Within the scope of these cooperation protocols, the ISS, IP is responsible for the payment of the necessary materials for houses and equipment intervention up to a maximum amount of 3 500 Euros per house and the municipalities are responsible for the implementation and monitoring of the rehabilitation and improvement works.

Between 2007 and 2010, the PCHI pilot phase was carried out in the following six districts: Bragança, Beja, Guarda, Castelo Branco, Portalegre and Vila Real and 974 housing improvement works were made during this period. In 2011 and 2012, the programme was extended to the districts of Faro, Coimbra, Viana do Castelo, Santarém, Leiria, Évora and Viseu with a total of 51 municipalities covered and 229 housing improvements works made.

Article 23

The Committee wishes to receive information on the costs of health care for elderly persons.

The RNCCI - National Network of Integrated Continuous Care - is coordinated by the the Central Administration of the National Health System. It is a kind of care that contributes to an integrated response to persons who find themselves in temporary or prolonged dependency situations, with the aim of rehabilitating and promoting autonomy. It stimulates the participation of users and families and supports families or informal caregivers in qualifying and in the provision of care.

It is based on a culture safeguarding social and human condition considering the principles of dignity, privacy, information, Non-discrimination, physical and moral integrity, citizenship.

The costs of this network are shared between health sector and social sector. The costs presented in this report are exclusively related to the health sector: 2013 - 115.591.140,95€.

Article 23

The Committee asks again what is the competent authority or body responsible for the inspection of homes and residencies (both public and private). It recalls the importance of ensuring that any inspection system regarding the standards of care and services provided in institutions and residential facilities should be entirely independent of the body managing the facility. It also asks for information on procedures exist for complaining about the standard of care and services or about ill treatment in this type of institution.

As it is mentioned in the response to paragraph 6, Residential Structures for the Elderly (ERPI) of the solidarity and profit oriented sectors are subject to inspections carried out by ISS, IP teams, These teams are integrated in the Inspection Department which

is responsible for the inspections in Private Social Solidarity Institutions (IPSS) and other private entities engaged in social support activities and to inform and clarify the entities and respective users of their rights and obligations, in order to prevent infractions or correct situations that may lead to infractions.

Within the scope of technical supervision, the cooperation teams have the responsibility to promote qualification, technical support and evaluation of the intervention, social services and responses, as well as to cooperate in the training of the respective stakeholders. This type of intervention is more targeted to prevention, in order to ensure the compliance with the requirements set in legislation and correct any deficiencies in the social facilities' activity.

Article 30

The Committee asks that the next report contain more detailed information on resource allocation for measures to combat poverty and social exclusion, including on whether the allocations match the increase in poverty rates.

Considering the observation and the conclusions of the European Committee of social rights we consider the report contains the detailed information that was available. Notwithstanding we would like to make some clarifications.

First of all it should be point out, that despite the austerity measures adopted since 2010, there was a considerable effort and investment in developing employment and social protection at national level in this last decade. Attention had been put in the growing efficacy of the increasing levels of social transfers combined with the need to improve the efficiency of social protection, and to protect those who need most. Data shows that the at-risk-of-poverty rate is strongly influenced by social transfers in Portugal. The impact of pensions and other social benefits such as those presented on the last report play a relevant role in the reduction of poverty and social exclusion, as it was shown on the analyses provided..

In fact, under the article 30, it was presented an analyze showing the evolution of poverty and social exclusion as well as the impact of social transfers in poverty reduction. As it was already said in the report, in Portugal the Social Protection System plays a key role as a main instrument to combat poverty and social exclusion in Portugal. Actually the so called social protection system of citizenship aims to ensure basic rights of citizens and equal opportunities, as well as, promote well-being and social cohesion. Among others, one of its main role is the prevention and the eradication of poverty and social exclusion, in particular through the solidarity subsystem. Taking that into account, detailed information, under that subsystem, concerning resources (expenses and coverage) was provided in all the report.

Also the social welfare service plays an important role in the prevention of poverty and promotion of social cohesion. In the answer of article 9 it was provided information (numbers and amounts concerning this system).
In conclusion, despite the fact that the information that was provided, was not organized by the main measures to combat poverty, we consider that detailed information on the resources allocated to poverty was provided.

Article 30

The report provides no information on how the measures to combat poverty and social exclusion are monitored and evaluated in Portugal. The Committee asks that the next report contain detailed information in this respect.

In the framework of the European Semester[4], Portugal had been reporting a set of elements and reports, reflecting the implementation and monitoring of social policies. Among others we highlight, the *National Social Reports* and *Questionnaires on the Social Impact of the Crisis,* as well as the indicators reported to Indicator Subgroup of the Social Protection Committee (SPC) as part of the Annual Report of the SPC. These are based on administrative data (monthly available) and on a quarterly survey on Employment. When available, the indicators provided by the portfolio on pensions and social inclusion, and more recently the integrated indicator proposed to monitor the inclusive growth on the Europe 2020 Strategy, are a crucial tool to monitor and evaluate the social policies that have been implemented, as well as to monitor the social impact of the crisis that hit our country.

Bellow we list some of the most used indicators to monitor the changing situation on a regular basis, particularly the social and employment situation. The available information respects to administrative data related to:

- job creation;
- activity and employment rates;
- registered unemployment and long term unemployment;
- number of 'job requests' (people unemployed, employed or in occupational programmes, who have visited the employment services to apply for a job);
- number of beneficiaries of: unemployment benefits, disability benefits, social assistance benefits (social integration income, family benefits, social unemployment);
- overdue loans ratio of private individuals, percentage of borrowers in the households sector with overdue loans.

The following indicators are also being closely analyzed: at-risk of poverty rate; median relative income; income inequality; material deprivation; people living in jobless households; at-risk-of-poverty rate - working age adults; layoff; incidence of low wages using different thresholds; at-risk of poverty and/or social exclusion rate.

On the other side, a concrete plan aiming to reduce the social impact of austerity on most vulnerable groups has been presented in 2011. The four-year "**Emergency Social Plan**" **(PES)**. It costs €400m the first year, and is structured in five essential areas for action: families, elderly, people with disabilities, volunteering and social institutions.

Some of the **PES** measures are:

- 10% increase in unemployment benefits for unemployed couples with children;

[4] It should be underlined that the European Semester is also a tool for implementing and monitoring the Europe 2020 strategy which involves the Member States of the EU.

- Provision of housing at rents below market prices in conjunction with banks which have repossessed properties;
- Reinforcement of the services of social canteens to ensure two daily meals for those in need;
- Increase of the free distribution of basic goods;
- Bolster response of the national emergency hotline to include the dimensions of poverty and social exclusion;
- Development of microcredit; incentives for volunteering;
- Expansion in public crèches and elderly Homes;
- 10% increase in subsidies to welfare institutions.

The **PES** will be reassessed every six months until the end of 2014 and it started during the last quarter of 2011. It is coordinated by the Cabinet of the Ministry of Solidarity and Social Security, involving several governmental bodies of the national social security system. It is expected to offer immediate responses to the most urgent situations and needs.

nidato; niquetamida; norfenefrina; octopamina; oxilofrina (metilsinefrina); pemolina; pentetrazol; propilhexedrina; pseudoefedrina*****; selegilina; sibutramina; tenanfetamina (metilenodioxianfetamina); trimetazidina; tuaminoheptano e outras substâncias com estrutura química similar ou efeito(s) biológico(s) similar(es).

* *As seguintes substâncias incluídas no Programa de Monitorização para 2014 (bupropion, cafeína, fenilefrina, fenilpropanolamina, nicotina, pipradol e sinefrina) não são consideradas Substâncias Proibidas.*

** *A catina é proibida quando a concentração na urina seja superior a 5 microgramas por mililitro.*

*** *Tanto a efedrina como a metilefedrina são proibidas quando a concentração na urina seja superior a 10 microgramas por mililitro.*

**** *A administração local (por exemplo nasal, oftalmológica) de epinefrina (adrenalina) ou quando associada com anestésicos locais não é proibida.*

***** *A pseudoefedrina é proibida quando a concentração na urina seja superior a 150 microgramas por mililitro.*

S7. Narcóticos

Os seguintes narcóticos são proibidos:

Buprenorfina; dextromoramida; diamorfina (heroína); fentanil e os seus derivados; hidromorfona; metadona; morfina; oxicodona; oximorfona; pentazocina; petidina.

S8. Canabinóides

Os canabinóides naturais (por exemplo canábis, haxixe, marijuana), ou delta 9-tetrahidrocanabinol (THC) sintético e os canabimiméticos (por exemplo "Spice", JWH018, JWH073, HU-210) são proibidos.

S9. Glucocorticosteróides

Todos os glucocorticosteroides são proibidos quando administrados por via oral, retal ou por injeção intravenosa ou intramuscular.

Substâncias Proibidas em alguns desportos em particular

P.1 Álcool

O álcool (Etanol) é proibido somente Em Competição, nos desportos a seguir indicados. A deteção será realizada pelo método de análise expiratória e/ou pelo sangue. O limite de deteção (valores hematológicos) para considerar um caso como uma violação antidopagem é 0,10 g/L.

Automobilismo (FIA)
Desportos Aéreos (FAI)
Karaté (WKF)
Motociclismo (FIM)
Motonáutica (UIM)
Tiro com Arco (WA)

P.2 Beta-Bloqueantes

Os beta-bloqueantes são proibidos somente Em Competição nos seguintes desportos, exceto se especificado de outra forma:

Automobilismo (FIA)
Bilhar (todas as disciplinas) (WCBS)
Esqui/Snowboard (FIS) saltos e estilo livre
Golfe (IGF)
Setas (WDF)
Tiro (ISSF, IPC) (proibido igualmente fora de competição)
Tiro com Arco (WA) (proibido igualmente fora de competição)

Beta-bloqueantes incluindo, mas não limitados aos seguintes:

Acebutolol; alprenolol; atenolol; betaxolol; bisoprolol; bunolol; carvedilol; carteolol; celiprolol; esmolol; labetalol; levobunolol; metipranolol; metoprolol; nadolol; oxprenolol; pindolol; propranolol; sotalol; timolol.

MINISTÉRIOS DAS FINANÇAS E DA JUSTIÇA

Portaria n.º 10/2014

de 17 de janeiro

Os serviços de piquete e de unidades de prevenção visam assegurar a prossecução das atribuições da Polícia Judiciária em regime de permanência.

Os montantes da retribuição destas formas específicas de prestação de trabalho foram fixados, pela última vez, em 1997, sob a forma de percentagens do índice 100 da escala salarial do pessoal de investigação criminal, definindo-se, na mesma portaria, o regime retributivo do trabalho por turnos em vigor na Polícia Judiciária.

O incremento do nível qualitativo da criminalidade tem correspondentemente gerado um aumento das exigências da prestação de trabalho naquelas modalidades, sendo certo que o combate às modernas formas de criminalidade, cada vez mais opacas e imunes a tradicionais formas de investigação, não se compaginam, também hoje, com a observância de horários normais de trabalho.

Em Resolução do Conselho da Europa sobre a reclamação Coletiva n.º 60/2010 relativa à remuneração do trabalho do pessoal de investigação criminal da Polícia Judiciária foi considerado que o valor atualmente pago a estes profissionais em resultado do trabalho desenvolvidos em regime de piquete e prevenção ativa não garante a remuneração acrescida a que se refere o n.º 2 do artigo 4.º da Carta Social Europeia.

Importa pois, por um lado, corrigir as percentagens antes estabelecidas, que sofreram, desde então, uma depreciação e, por outro, procurar uma aproximação efetiva às exigências da referida Resolução, designadamente no que ao cálculo e retribuição do valor hora diz respeito.

Desta forma, nos termos do disposto nos n.os 3 e 4 do artigo 79.º do Decreto-Lei n.º 275-A/2000, de 9 de novembro, manda o Governo, pelas Ministras de Estado e das Finanças e da Justiça, o seguinte:

Artigo 1.º

Suplemento de piquete

1 — O suplemento de piquete a que tem direito o pessoal da Polícia Judiciária é fixado em percentagens do

DGPJ

Direcção-Geral da Política de Justiça

MINISTÉRIO DA JUSTIÇA

C/C:

Exma Senhora

Chefe do Gabinete

de S. Exa a Ministra da Justiça

Exmo Senhor

Diretor-Nacional da Polícia Judiciária

Exmo Senhor

Diretor-Geral de Política Externa

Palácio das Necessidades

Largo do Rilvas

1399-030 Lisboa

S/REF.ª: **DATA:** **N/REF.ª:** GRI/UJC/72 **DATA:** 23 JAN 2014

ASSUNTO: Reclamação n.º 60/2010 – Conselho Europeu dos Sindicatos de Polícia contra Portugal – publicação da Portaria n.º 10/2014, de 17 de janeiro

Junto tenho a honra de remeter a V. Exa cópia da Portaria n.º 10/2014, de 17 de janeiro que estabelece as novas percentagens de remuneração do pessoal de investigação criminal, tanto em situações de piquete como de prevenção ativa.

Esta recente Portaria surge na sequência da Resolução do Comité de Ministros do Conselho da Europa, tomada no seguimento da decisão do Comité Europeu dos Direitos Sociais no âmbito da Reclamação n.º 60/2010, que considerou, conforme indicação expressa contida no quarto parágrafo do preâmbulo do texto ora enviado, que o regime fixado pela Portaria n.º 98/97, de 13 de fevereiro não garantia a remuneração acrescida a que se refere o número 2 do artigo 4.º da Carta Social Europeia. Com efeito, o Comité havia concluído que o Estado Português violava o artigo 4.º, § 2, da Carta Social Europeia revista, por força da remuneração atribuída aos agentes de investigação criminal nas situações de piquete e de prevenção ativa.

A Portaria n.º 10/2014 visa corrigir a situação errónea detetada pelo Comité e, desta forma, honrar os compromissos internacionais assumidos pelo Estado Português aquando da sua vinculação ao instrumento jurídico do Conselho da Europa.

Deste modo, a Portaria revê as percentagens atribuídas aos funcionários de investigação criminal (artigo 1.º), fixa um suplemento de prevenção em 40% (artigo 2.º), determina uma nova forma de cálculo do valor-hora (artigo 3.º, n.º 1), prevendo um acréscimo de 100% a partir das 24 horas (n.º 2) e define, por fim, o regime de remuneração dos turnos (artigo 4.º).

Em todos os casos, os novos montantes representam uma majoração quando comparados com a situação anterior.

Neste sentido, solicita-se a V. Exa que se digne diligenciar no sentido de ser comunicada, com a brevidade possível, a publicação da Portaria ao competente Comité do Conselho da Europa, de modo a tornar internacionalmente visível o cumprimento que foi dado à decisão daquela Organização Internacional.

Com os meus melhores cumprimentos,

A Diretora-Geral,

Susana Antas Videira

/jao

nidato; niquetamida; norfenefrina; octopamina; oxilofrina (metilsinefrina); pemolina; pentetrazol; propilhexedrina; pseudoefedrina*****; selegilina; sibutramina; tenanfetamina (metilenodioxianfetamina); trimetazidina; tuaminoheptano e outras substâncias com estrutura química similar ou efeito(s) biológico(s) similar(es).

* *As seguintes substâncias incluídas no Programa de Monitorização para 2014 (bupropion, cafeína, fenilefrina, fenilpropanolamina, nicotina, pipradol e sinefrina) não são consideradas Substâncias Proibidas.*

** *A catina é proibida quando a concentração na urina seja superior a 5 microgramas por mililitro.*

*** *Tanto a efedrina como a metilefedrina são proibidas quando a concentração na urina seja superior a 10 microgramas por mililitro.*

**** *A administração local (por exemplo nasal, oftalmológica) de epinefrina (adrenalina) ou quando associada com anestésicos locais não é proibida.*

***** *A pseudoefedrina é proibida quando a concentração na urina seja superior a 150 microgramas por mililitro.*

S7. Narcóticos

Os seguintes narcóticos são proibidos:

Buprenorfina; dextromoramida; diamorfina (heroína); fentanil e os seus derivados; hidromorfona; metadona; morfina; oxicodona; oximorfona; pentazocina; petidina.

S8. Canabinóides

Os canabinóides naturais (por exemplo canábis, haxixe, marijuana), ou delta 9-tetrahidrocanabinol (THC) sintético e os canabimiméticos (por exemplo "Spice", JWH018, JWH073, HU-210) são proibidos.

S9. Glucocorticosteróides

Todos os glucocorticosteroides são proibidos quando administrados por via oral, retal ou por injeção intravenosa ou intramuscular.

Substâncias Proibidas em alguns desportos em particular

P.1 Álcool

O álcool (Etanol) é proibido somente Em Competição, nos desportos a seguir indicados. A deteção será realizada pelo método de análise expiratória e/ou pelo sangue. O limite de deteção (valores hematológicos) para considerar um caso como uma violação antidopagem é 0,10 g/L.

Automobilismo (FIA)
Desportos Aéreos (FAI)
Karaté (WKF)
Motociclismo (FIM)
Motonáutica (UIM)
Tiro com Arco (WA)

P.2 Beta-Bloqueantes

Os beta-bloqueantes são proibidos somente Em Competição nos seguintes desportos, exceto se especificado de outra forma:

Esqui/Snowboard (FIS) saltos e estilo livre
Golfe (IGF)
Setas (WDF)
Tiro (ISSF, IPC) (proibido igualmente fora de competição)
Tiro com Arco (WA) (proibido igualmente fora de competição)

Beta-bloqueantes incluindo, mas não limitados aos seguintes:

Acebutolol; alprenolol; atenolol; betaxolol; bisoprolol; bunolol; carvedilol; carteolol; celiprolol; esmolol; labetalol; levobunolol; metipranolol; metoprolol; nadolol; oxprenolol; pindolol; propranolol; sotalol; timolol.

MINISTÉRIOS DAS FINANÇAS E DA JUSTIÇA

Portaria n.º 10/2014

de 17 de janeiro

Os serviços de piquete e de unidades de prevenção visam assegurar a prossecução das atribuições da Polícia Judiciária em regime de permanência.

Os montantes da retribuição destas formas específicas de prestação de trabalho foram fixados, pela última vez, em 1997, sob a forma de percentagens do índice 100 da escala salarial do pessoal de investigação criminal, definindo-se, na mesma portaria, o regime retributivo do trabalho por turnos em vigor na Polícia Judiciária.

O incremento do nível qualitativo da criminalidade tem correspondentemente gerado um aumento das exigências da prestação de trabalho naquelas modalidades, sendo certo que o combate às modernas formas de criminalidade, cada vez mais opacas e imunes a tradicionais formas de investigação, não se compaginam, também hoje, com a observância de horários normais de trabalho.

Em Resolução do Conselho da Europa sobre a reclamação Coletiva n.º 60/2010 relativa à remuneração do trabalho do pessoal de investigação criminal da Polícia Judiciária foi considerado que o valor atualmente pago a estes profissionais em resultado do trabalho desenvolvidos em regime de piquete e prevenção ativa não garante a remuneração acrescida a que se refere o n.º 2 do artigo 4.º da Carta Social Europeia.

Importa pois, por um lado, corrigir as percentagens antes estabelecidas, que sofreram, desde então, uma depreciação e, por outro, procurar uma aproximação efetiva às exigências da referida Resolução, designadamente no que ao cálculo e retribuição do valor hora diz respeito.

Desta forma, nos termos do disposto nos n.os 3 e 4 do artigo 79.º do Decreto-Lei n.º 275-A/2000, de 9 de novembro, manda o Governo, pelas Ministras de Estado e das Finanças e da Justiça, o seguinte:

Artigo 1.º

Suplemento de piquete

índice 100 da escala salarial do pessoal de investigação criminal:

a) Dias úteis:

Coordenadores de Investigação Criminal — 9,3 %;
Inspetores-chefe — 8,5 %;
Inspetores e outro pessoal — 8,3 %;

b) Sábados, domingos e feriados:

Coordenadores de Investigação Criminal — 11,6 %;
Inspetores-chefe — 10,7 %;
Inspetores e outro pessoal — 10,5 %.

2 — Os montantes resultantes do cálculo das percentagens fixadas nos números anteriores são arredondados para as décimas de euros imediatamente superiores.

Artigo 2.º

Suplemento de prevenção

O suplemento de prevenção é fixado em 40 % dos valores obtidos nos termos dos números anteriores.

Artigo 3.º

Remuneração do valor-hora

1 — A prestação efetiva de trabalho por parte do pessoal que integra o serviço de unidades de prevenção é remunerada em função do valor-hora calculado de acordo com a fórmula seguinte:

Valor do correspondente suplemento de piquete/12

2 — O valor da hora de trabalho prestado a partir das 24 horas sofre um acréscimo de 100 % relativamente ao fixado no número anterior.

3 — Em caso algum o montante total auferido em função do disposto nos artigos 2.º a 4.º pode exceder o do correspondente suplemento de piquete.

4 — O montante mensal dos pagamentos referidos nos números anteriores, auferido por qualquer trabalhador que integre o pessoal da Polícia Judiciária, não pode ultrapassar um terço da respetiva remuneração base.

Artigo 4.º

Regime de turnos

O pessoal da Polícia Judiciária que trabalha em regime de turnos tem direito a um suplemento correspondente a um acréscimo de remuneração calculado sobre a sua remuneração base, de acordo com as seguintes percentagens:

a) Regime de turnos permanente, parcial e total — respetivamente 22 % e 25 %;
b) Regime de turnos semanal prolongado, parcial e total — respetivamente 20 % e 22 %;
c) Regime de turnos semanal, parcial e total — respetivamente 15 % e 20 %.

Artigo 5.º

Produção de efeitos

Artigo 6.º

Norma revogatória

É revogada a Portaria n.º 98/97, de 13 de fevereiro.

A Ministra de Estado e das Finanças, *Maria Luís Casanova Morgado Dias de Albuquerque,* em 14 de janeiro de 2014. — A Ministra da Justiça, *Paula Maria von Hafe Teixeira da Cruz,* em 13 de janeiro de 2014.

MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS

Decreto n.º 2/2014

de 17 de janeiro

Considerando as relações de amizade existentes entre a República Portuguesa e os Estados Unidos da América, foram trocadas Notas Verbais entre os dois Estados, em Lisboa, em 23 de setembro e 10 de outubro de 2013, para a entrada em vigor de um Acordo sobre Atividades Remuneradas dos Dependentes dos Membros das Missões Diplomáticas e Postos Consulares designados para funções oficiais.

O presente Acordo insere-se num conjunto de Acordos que a República Portuguesa tem promovido com países com os quais mantém um relacionamento próximo, possibilitando aos cônjuges e dependentes de funcionários acreditados noutros países prosseguir, se desejado, a sua carreira profissional.

A sua aprovação permitirá enquadrar e facilitar o exercício de atividades remuneradas, com base no princípio da reciprocidade, por parte de dependentes do pessoal diplomático e consular português e norte-americano, versando igualmente sobre as suas imunidades de jurisdição civil e administrativa.

Assim:

Nos termos da alínea *c*) do n.º 1 do artigo 197.º da Constituição, o Governo aprova o Acordo por troca de notas, assinadas em Lisboa em 23 de setembro e 10 de outubro de 2013, entre a República Portuguesa e os Estados Unidos da América sobre Atividades Remuneradas dos Dependentes dos Membros das Missões Diplomáticas e Postos Consulares designados para funções oficiais, cujas versões nas línguas portuguesa e inglesa se publicam em anexo.

Visto e aprovado em Conselho de Ministros de 28 de novembro de 2013. — *Pedro Passos Coelho — Rui Manuel Parente Chancerelle de Machete.*

Assinado em 7 de janeiro de 2014.

Publique-se.

O Presidente da República, Aníbal Cavaco Silva.

Referendado em 9 de janeiro de 2014.

O Primeiro-Ministro, *Pedro Passos Coelho.*

NV/DGPE/DSA Nº 5809/2013

Proc.º 3/EUA/01

NOTA VERBAL

DGPJ
Direcção-Geral da Política de Justiça

MINISTÉRIO DA JUSTIÇA

C/C:

Exma Senhora
Chefe do Gabinete
de S. Exa a Ministra da Justiça

Exmo Senhor
Diretor-Nacional da Polícia Judiciária

Exmo Senhor
Diretor-Geral de Política Externa
Palácio das Necessidades
Largo do Rilvas
1399-030 Lisboa

S/REF.ª: **DATA:** **N/REF.ª:** GRI/UJC/72 **DATA:** 23 JAN 2014

ASSUNTO: Reclamação n.º 60/2010 – Conselho Europeu dos Sindicatos de Polícia contra Portugal – publicação da Portaria n.º 10/2014, de 17 de janeiro

Junto tenho a honra de remeter a V. Exa cópia da Portaria n.º 10/2014, de 17 de janeiro que estabelece as novas percentagens de remuneração do pessoal de investigação criminal, tanto em situações de piquete como de prevenção ativa.

Esta recente Portaria surge na sequência da Resolução do Comité de Ministros do Conselho da Europa, tomada no seguimento da decisão do Comité Europeu dos Direitos Sociais no âmbito da Reclamação n.º 60/2010, que considerou, conforme indicação expressa contida no quarto parágrafo do preâmbulo do texto ora enviado, que o regime fixado pela Portaria n.º 98/97, de 13 de fevereiro não garantia a remuneração acrescida a que se refere o número 2 do artigo 4.º da Carta Social Europeia. Com efeito, o Comité havia concluído que o Estado Português

****
*** RELATÓRIO TR. ***
****

TRANSMISSÃO OK

S/ TR/RE	1309
TELEFONE	0213467692
SUBMORADA	
ID LIGAÇÃO	
HORA INC	23/01 16:09
T. USADO	01'31
PÁGS. ENVIADAS	4
RESULTADO	OK

DGPJ
Direcção-Geral da Política de Justiça

MINISTÉRIO DA JUSTIÇA

C/C:
Exma Senhora
Chefe do Gabinete
de S. Exa a Ministra da Justiça

Exmo Senhor
Diretor-Nacional da Polícia Judiciária

Exmo Senhor
Diretor-Geral de Política Externa
Palácio das Necessidades
Largo do Rilvas
1399-030 Lisboa

S/REF.ª: **DATA:** **N/REF.ª:** GRI/UJC/72 **DATA:** 23 JAN 2014

ASSUNTO: Reclamação n.º 60/2010 – Conselho Europeu dos Sindicatos de Polícia contra Portugal – publicação da Portaria n.º 10/2014, de 17 de janeiro

Junto tenho a honra de remeter a V. Exa cópia da Portaria n.º 10/2014, de 17 de janeiro que estabelece as novas percentagens de remuneração do pessoal de investigação criminal, tanto em situações de piquete como de prevenção ativa.

Esta recente Portaria surge na sequência da Resolução do Comité de Ministros do Conselho da Europa, tomada no seguimento da decisão do Comité Europeu dos Direitos Sociais no âmbito da Reclamação n.º 60/2010, que considerou, conforme indicação expressa contida no quarto parágrafo do preâmbulo do texto ora enviado, que o regime fixado pela Portaria n.º 98/97, de 13 de fevereiro não garantia a remuneração acrescida a que se refere o número 2 do artigo 4.º

****
*** RELATÓRIO TR. ***
****

TRANSMISSÃO OK

S/ TR/RE	1308
TELEFONE	0213946052
SUBMORADA	
ID LIGAÇÃO	
HORA INC	23/01 15:56
T. USADO	01'57
PÁGS. ENVIADAS	4
RESULTADO	OK

DGPJ
Direcção-Geral da Política de Justiça

MINISTÉRIO DA JUSTIÇA

C/C:
Exma Senhora
Chefe do Gabinete
de S. Exa a Ministra da Justiça

Exmo Senhor
Diretor-Nacional da Polícia Judiciária

Exmo Senhor
Diretor-Geral de Política Externa
Palácio das Necessidades
Largo do Rilvas
1399-030 Lisboa

S/REF.ª: **DATA:** **N/REF.ª:** GRI/UJC/72 **DATA:** 23 JAN 2014

ASSUNTO: Reclamação n.º 60/2010 – Conselho Europeu dos Sindicatos de Polícia contra Portugal – publicação da Portaria n.º 10/2014, de 17 de janeiro

Junto tenho a honra de remeter a V. Exa cópia da Portaria n.º 10/2014, de 17 de janeiro que estabelece as novas percentagens de remuneração do pessoal de investigação criminal, tanto em situações de piquete como de prevenção ativa.

Esta recente Portaria surge na sequência da Resolução do Comité de Ministros do Conselho da Europa, tomada no seguimento da decisão do Comité Europeu dos Direitos Sociais no âmbito da Reclamação n.º 60/2010, que considerou, conforme indicação expressa contida no quarto parágrafo do preâmbulo do texto ora enviado, que o regime fixado pela Portaria n.º 98/97, de 13 de fevereiro não garantia a remuneração acrescida a que se refere o número 2 do artigo 4.º

índice 100 da escala salarial do pessoal de investigação criminal:

a) Dias úteis:

Coordenadores de Investigação Criminal — 9,3 %;
Inspetores-chefe — 8,5 %;
Inspetores e outro pessoal — 8,3 %;

b) Sábados, domingos e feriados:

Coordenadores de Investigação Criminal — 11,6 %;
Inspetores-chefe — 10,7 %;
Inspetores e outro pessoal — 10,5 %.

2 — Os montantes resultantes do cálculo das percentagens fixadas nos números anteriores são arredondados para as décimas de euros imediatamente superiores.

Artigo 2.º

Suplemento de prevenção

O suplemento de prevenção é fixado em 40 % dos valores obtidos nos termos dos números anteriores.

Artigo 3.º

Remuneração do valor-hora

1 — A prestação efetiva de trabalho por parte do pessoal que integra o serviço de unidades de prevenção é remunerada em função do valor-hora calculado de acordo com a fórmula seguinte:

Valor do correspondente suplemento de piquete/12

2 — O valor da hora de trabalho prestado a partir das 24 horas sofre um acréscimo de 100 % relativamente ao fixado no número anterior.

3 — Em caso algum o montante total auferido em função do disposto nos artigos 2.º a 4.º pode exceder o do correspondente suplemento de piquete.

4 — O montante mensal dos pagamentos referidos nos números anteriores, auferido por qualquer trabalhador que integre o pessoal da Polícia Judiciária, não pode ultrapassar um terço da respetiva remuneração base.

Artigo 4.º

Regime de turnos

O pessoal da Polícia Judiciária que trabalha em regime de turnos tem direito a um suplemento correspondente a um acréscimo de remuneração calculado sobre a sua remuneração base, de acordo com as seguintes percentagens:

a) Regime de turnos permanente, parcial e total — respetivamente 22 % e 25 %;
b) Regime de turnos semanal prolongado, parcial e total — respetivamente 20 % e 22 %;
c) Regime de turnos semanal, parcial e total — respetivamente 15 % e 20 %.

Artigo 5.º

Produção de efeitos

Os valores ora fixados vigoram a partir do mês imediato ao da publicação da presente portaria.

Artigo 6.º

Norma revogatória

É revogada a Portaria n.º 98/97, de 13 de fevereiro.

A Ministra de Estado e das Finanças, *Maria Luís Casanova Morgado Dias de Albuquerque,* em 14 de janeiro de 2014. — A Ministra da Justiça, *Paula Maria von Hafe Teixeira da Cruz,* em 13 de janeiro de 2014.

MINISTÉRIO DOS NEGÓCIOS ESTRANGEIROS

Decreto n.º 2/2014

de 17 de janeiro

Considerando as relações de amizade existentes entre a República Portuguesa e os Estados Unidos da América, foram trocadas Notas Verbais entre os dois Estados, em Lisboa, em 23 de setembro e 10 de outubro de 2013, para a entrada em vigor de um Acordo sobre Atividades Remuneradas dos Dependentes dos Membros das Missões Diplomáticas e Postos Consulares designados para funções oficiais.

O presente Acordo insere-se num conjunto de Acordos que a República Portuguesa tem promovido com países com os quais mantém um relacionamento próximo, possibilitando aos cônjuges e dependentes de funcionários acreditados noutros países prosseguir, se desejado, a sua carreira profissional.

A sua aprovação permitirá enquadrar e facilitar o exercício de atividades remuneradas, com base no princípio da reciprocidade, por parte de dependentes do pessoal diplomático e consular português e norte-americano, versando igualmente sobre as suas imunidades de jurisdição civil e administrativa.

Assim:

Nos termos da alínea *c*) do n.º 1 do artigo 197.º da Constituição, o Governo aprova o Acordo por troca de notas, assinadas em Lisboa em 23 de setembro e 10 de outubro de 2013, entre a República Portuguesa e os Estados Unidos da América sobre Atividades Remuneradas dos Dependentes dos Membros das Missões Diplomáticas e Postos Consulares designados para funções oficiais, cujas versões nas línguas portuguesa e inglesa se publicam em anexo.

Visto e aprovado em Conselho de Ministros de 28 de novembro de 2013. — *Pedro Passos Coelho — Rui Manuel Parente Chancerelle de Machete.*

Assinado em 7 de janeiro de 2014.

Publique-se.

O Presidente da República, ANÍBAL CAVACO SILVA.

Referendado em 9 de janeiro de 2014.

O Primeiro-Ministro, *Pedro Passos Coelho.*

NV/DGPE/DSA Nº 5809/2013

Proc.º 3/EUA/01

NOTA VERBAL

O Ministério dos Negócios Estrangeiros apresenta os seus atenciosos cumprimentos à Embaixada dos Estados