

Council of Europe contribution for the 33rd UPR session (April-May 2019) regarding Portugal

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Prevention of torture (CPT)

The 'European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment' organises country visits in order to visit places of detention to assess how persons deprived of their liberty are treated. After each visit, the CPT sends a detailed report to the State concerned. This report includes the CPT's findings, and its recommendations, comments and requests for information.

The report on the 2016 periodic visit: <http://rm.coe.int/168078e1c8>



CPT_inf20186_Portugal.pdf

Executive summary: <http://rm.coe.int/168078e1c9>



CPT_Inf20186_Part_Portugal.pdf

Government response: <http://rm.coe.int/168078e1ca>



CPTInf20187_Portugal.pdf

News flash on the publication of the report and response for a brief summary:

<https://www.coe.int/en/web/cpt/-/anti-torture-committee-urges-portugal-to-tackle-police-ill-treatment-and-the-poor-treatment-of-prisoners>

The report on the 2013 ad hoc visit: <http://rm.coe.int/doc/09000016806979c5>



CPT_Inf201335_Portugal.pdf

Government response: <http://rm.coe.int/doc/09000016806979c6>



CPT_Inf201336_portugal.pdf

News flash on the publication of the report and response for a brief summary:

<https://www.coe.int/en/web/cpt/-/council-of-europe-anti-torture-committee-publishes-report-on-portug-1>

Council of Europe Commissioner for Human Rights

The Commissioner for Human Rights is an independent and impartial non-judicial institution established by Council of Europe to promote awareness of and respect for human rights in the 47 Council of Europe member States. The information below covers two visits by the former Commissioner, Mr Nils Muižnieks, in 2015 and 2018.

In a [Report](#) following his visit to Portugal from 7 to 9 May 2012, the Commissioner raised concerns about the impact of austerity measures on the human rights of some vulnerable groups, in particular older persons, children and Roma. Regarding children, he highlighted the impact of cuts in social support and benefits on the enjoyment by children of their human rights, the risk of increased domestic violence against children, as well as of a possible resurgence of child labour. The Commissioner also underlined the impact of budgetary restrictions on access to education. Regarding older persons, concerns were raised that financial cuts, combined with an increase in prices of transportation, electricity and access to health care, resulted in more poverty and social exclusion for many older persons. Moreover, he underlined the risks associated with the withdrawing by many families of older persons from residential care in order to benefit from additional income in the form of their pensions. While deinstitutionalisation was a welcome process, it should be carried out as part of comprehensive policies and with additional support for the older persons and families concerned in order to prevent higher levels of abuse, including violence and neglect. As regards the human rights of Roma, the Commissioner expressed deep concern at the continued discrimination against Roma, especially in the areas of housing and education. He highlighted in particular problems of segregated and substandard housing, as well as instances of separate classes for Roma children. He stressed that integration into mainstream education should be favoured in order to ensure that all Roma pupils have equal access to quality education. Moreover, he urged the authorities to ensure the allocation of adequate resources for the effective implementation of the National Strategy for Roma Integration. Finally, the Commissioner regretted that non-governmental organisations involved in human rights work and in the provision of services to vulnerable social groups faced growing difficulties, even though an ever-increasing number of persons turn to them for support as a result of the financial crisis. He invited the authorities to enhance dialogue and co-operation with civil society organisations on poverty-alleviation policies and social policies in general.

The [Report](#) is available on the Commissioner's website, along with the authorities' [comments](#).

In 2017, Commissioner Muižnieks carried out a follow-up [visit](#) to Portugal, during which he highlighted issues pertaining to the human rights of Roma. He focused in particular on measures to combat discrimination and support the empowerment of Roma people. Moreover, the Commissioner again raised issues related to education and housing. While welcoming the launch of a programme of scholarships for young Roma to take part in higher education, he invited the authorities to adopt further measures to reduce the high drop-out rates among Roma pupils and combat illiteracy, especially among women and girls. He also encouraged the authorities to pursue programmes aimed at addressing the housing needs of the most vulnerable in society, ensuring that Roma fully benefit from these programmes, and pointed to the continuing need to eradicate substandard and segregated Roma settlements. Additionally, the Commissioner expressed concerns about recent violent incidents against Roma-owned properties, which took place in 2017 in a municipality in the south of Portugal. He urged the authorities to ensure a prompt and adequate investigation in order to apprehend and adequately punish the perpetrators of such acts.



[CommDH201222_Portugal.pdf](#)

Fight against racism and intolerance (ECRI)

The European Commission against Racism and Intolerance (ECRI) is a human rights body of the Council of Europe, composed of independent experts, which monitors problems of racism, xenophobia, antisemitism, intolerance and discrimination on grounds such as “race”, national/ethnic origin, colour, citizenship, religion and language. It prepares reports and issues recommendations to member States, in which its findings, along with recommendations are published. These reports are drawn up after a contact visit to the country in question and a confidential dialogue with the national authorities. The country monitoring takes place in five-year cycles. As part of the fourth round of ECRI’s monitoring work, a new process of interim follow-up has been introduced with respect to a small number of specific recommendations made in each of ECRI’s country reports.

ECRI carried out a contact visit to Portugal from 17-20 November 2017 in order to prepare its fifth report on Portugal. Publication of the report is expected on 2 October 2018.

ECRI’s conclusions on the implementation of the recommendations in respect of Portugal subject to interim follow-up were adopted on 17 March 2016 and published on 7 June 2016,

<https://rm.coe.int/interim-follow-up-conclusions-on-portugal-4th-monitoring-cycle/16808b59cf>



CRI201625_Portugal
.pdf

ECRI’s fourth report on Portugal was adopted on 21 March 2013 and published on 9 July 2013.

Report: <https://rm.coe.int/fourth-report-on-portugal/16808b59c3>



CRI201625_Portugal
.pdf

Government comments appended to the report: <https://rm.coe.int/government-comments-on-the-fourth-report-on-portugal/16808b59cc>.



ECRI_governmental_
response_Portugal_2

Protection of minorities

Framework Convention for the Protection of National Minorities

The monitoring procedure for this convention requires each state party to submit a report within one year following the entry into force of the Framework Convention and additional reports every five subsequent years. State reports are examined by the [Advisory Committee](#), a body composed of 18 independent experts responsible for adopting country-specific opinions. These opinions, on which States Parties have an opportunity to comment, are meant to advise the Committee of Ministers in the preparation of its resolutions, containing conclusions and recommendations to the State concerned.

Opinion

The Advisory Committee on the Framework Convention adopted the 3th Opinion in respect of Portugal on 4 December 2014.

<https://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=0900001680304cd>
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ACFOPIII2014002_P
ortugal.pdf

Resolution

Resolution CM/ResCMN(2016)7 on the implementation of the Framework Convention for the Protection on National Minorities by Portugal was adopted by the Committee of Ministers on 11 May 2016.

https://search.coe.int/cm/Pages/result_details.aspx?ObjectId=090000168064f4ea



Resolution_CMN2016
7_Portugal.pdf

European Charter for Regional or Minority Languages

The [Charter's monitoring procedure](#) is based on state reports, as each State Party is required to present its first report within the year following the entry into force of the Charter with respect to the Party concerned. The subsequent reports are presented at three-yearly intervals. A committee of independent experts examines the state's periodical report and addresses an evaluation report to the Committee of Ministers, including proposals for recommendations.

Intercultural Cities (ICC)

Intercultural Cities (ICC) is a capacity-building programme which supports cities in developing, implementing and evaluating local diversity and inclusion strategies cutting across institutional silos, as well as mobilising leaders, policy officers, professionals, businesses and civil society behind a new model of integration based on inclusive citizenship as well as the mixing and interaction between people from different ethnic, religious and linguistic backgrounds.

The ICC programme has been working for the past two years on developing an effective framework for dialogue and co-action between local, regional and national authorities in order to ensure that migrant inclusion policies at all levels reinforce each other. To this end, the ICC has launched an [Inclusive Integration Policy Lab](#), that aims to ensure policy consistency and complementarity and enable transfer of innovation and good practice from local to regional and national levels and vice-versa, in view of a management of migration that complies with human rights standards and reaps the benefits and minimise the risks related to human mobility and diversity.

The Portuguese ICC network is preparing to set up its own national Policy Lab. The main concern that will be discussed during the first meeting (Lisbon, 9-10 October) will be the non-coherent application of national laws by municipal services which results in scattered (and sometimes lack of) access to services by non-nationals. Other topics to be discussed include access to nationality and residence rights; access to employment and formal recognition of qualification; access to language training; social, civic and cultural rights as the basis of political participation process.

Action against trafficking in human beings (GRETA)

The Council of Europe Convention on Action against Trafficking in Human Beings was adopted by the Committee of Ministers of the Council of Europe on 3 May 2005, following a series of other initiatives by the Council of Europe in the field of combating trafficking in human beings. The Convention entered into force on 1 February 2008, following its 10th ratification. While building on existing international instruments, the Convention goes beyond the minimum standards agreed upon in them and strengthens the protection afforded to victims.

The Convention has a comprehensive scope of application, encompassing all forms of trafficking (whether national or transnational, linked or not linked to organised crime) and taking in all persons who are victims of trafficking (women, men or children). The forms of exploitation covered by the Convention are, at a minimum, sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude and the removal of organs.

The main added value of the Convention is its human rights perspective and focus on victim protection. Its Preamble defines trafficking in human beings as a violation of human rights and an offence to the dignity and integrity of the human being. The Convention provides for a series of rights for victims of trafficking, in particular the right to be identified as a victim, to be protected and assisted, to be given a recovery and reflection period of at least 30 days, to be granted a renewable residence permit, and to receive compensation for the damages suffered.

Another important added value of the Convention is the monitoring system set up to supervise the implementation of the obligations contained in it, which consists of two pillars: the Group of Experts on Action against Trafficking in Human Beings (GRETA) and the Committee of the Parties.

The Convention is not restricted to Council of Europe member states; non-members states and the European Union also have the possibility of becoming Party to the Convention.

GRETA's page on Portugal: <http://www.coe.int/en/web/anti-human-trafficking/portugal>

A 3rd round evaluation visit to PRT will take place in 2020.

[GRETA's 2nd round evaluation report and Government's comments](#)



[GRETA20174_Portugal.pdf](#)

[Committee of the Parties' recommendations – 2nd evaluation round](#)



[CP20174_Portugal.pdf](#)

Government's reply to Committee of the Parties' 2nd round recommendations – to be published following the next CoP meeting (9/11)

Preventing and combating violence against women and domestic violence (GREVIO)

The Council of Europe Convention on preventing and combating violence against women and Domestic violence ([Istanbul Convention](#), CETS No. 210) is the most far-reaching international treaty to tackle this serious violation of human rights. It aims at zero tolerance for such violence and is a major step forward in making Europe and beyond safer. Preventing violence, protecting victims and prosecuting the perpetrators are the cornerstones of the convention. It also seeks to change the hearts and minds of individuals by calling on all members of society, in particular men and boys, to change their attitudes. In essence, it is a renewed call for greater equality between women and men, because violence against women is deeply rooted in the inequality between women and men in society and is perpetuated by a culture of intolerance and denial.

The Council of Europe Istanbul Convention provides for two types of monitoring procedures:

- 1. a country-by-country evaluation procedure;*
- 2. and a special inquiry procedure in exceptional cases where action is required to prevent a serious, massive or persistent pattern of any acts of violence covered by the Convention.*

GREVIO, the Group of Experts on Action against violence against women and domestic violence, is the independent body responsible for monitoring the implementation of CETS No. 210. GREVIO launched its first evaluation procedure in spring 2016, after adopting a questionnaire on legislative and other measures giving effect to the Istanbul Convention.

The Convention is not restricted to Council of Europe member states; non-members states and the European Union also have the possibility of becoming Party to the Convention.

GREVIO's Page on Portugal: <https://www.coe.int/en/web/istanbul-convention/portugal>

First (baseline) evaluation

[State report](#) *(Received on 8 September 2017)*



[GREVIO_State_report2017_Portugal.pdf](#)

Protection of children against sexual abuse (Lanzarote Convention)

The Council of Europe Convention on Protection of Children against Sexual Exploitation and Sexual Abuse, also known as "[the Lanzarote Convention](#)", requires criminalisation of all kinds of sexual offences against children. It sets out that states in Europe and beyond shall adopt specific legislation and take measures to prevent sexual violence, to protect child victims and to prosecute perpetrators.

The "Lanzarote Committee" (i.e. the Committee of the Parties to the Convention on the Protection of Children against Sexual Exploitation and Sexual Abuse) is the body established to monitor whether Parties effectively implement the Lanzarote Convention. To do so, the Committee evaluates the information which has been

provided by the national authorities and other sources in their replies to questionnaires developed by the Committee itself. This monitoring procedure is divided by rounds, each round concerning a theme; starting with sexual abuse in the circle of trust.

As to the 1st monitoring round on the "Protection of children against sexual exploitation and sexual abuse in the circle of trust", Portugal was urged to

- review their legislation to ensure effective protection of children from situations where abuse is made of a recognised position of influence (R1, 1st implementation report);
- take the necessary legislative or other measures to set up or designate mechanisms for data collection or focal points at national or local level and in collaboration with civil society, for the purpose of observing and evaluating in terms of quantitative data collection the phenomenon of the sexual exploitation and sexual abuse of children in general and child sexual abuse committed in the circle of trust, in particular (R13, 1st implementation report);
- take the necessary legislative or other measures to ensure that the persons who are close to the victim may benefit, where appropriate, from therapeutic assistance, notably emergency psychological care (R30, 1st implementation report);
- remove the exception concerning adolescents aged 14-16 years requiring them to lodge a complaint when they are victims, so that the proceedings are instituted ex officio in these cases also (R56, 1st implementation report);
- put in place effective intervention programmes or measures for persons, including children, who fear they may offend to prevent the risk of offences being committed (R.24, 2nd implementation report);
- put in place effective intervention programmes or measures designed to evaluate and prevent the risk of offences being committed, in the pre-trial phase of the procedure (R29, 2nd implementation report).

As regards the urgent monitoring round on "Protecting children affected by the refugee crisis from sexual exploitation and sexual abuse", Portugal (as well as the other 39 parties covered by the round) received the following 5 "urge recommendations":

- urges Parties in line with Article 5 of the Convention to effectively screen all persons who, by their professions, have regular contact with children affected by the refugee crisis for convictions of acts of sexual exploitation or sexual abuse of children in line with their internal law (R18);
- since examining the family situation is important where there are suspicions of child sexual exploitation or abuse, urges Parties to take the necessary measures to avoid risks that the child may be abused or exploited in case of family reunification (R27);
- urges Parties that have not yet done so to take the necessary legislative or other measures to ensure that child victims of sexual exploitation and sexual abuse affected by the refugee crisis may benefit from therapeutic assistance, notably emergency psychological care (R29);
- urges Parties to encourage the co-ordination and collaboration of the different actors who intervene for and with children affected by the refugee crisis to ensure that appropriate support may be provided immediately after the disclosure of sexual exploitation and sexual abuse (R30);
- urges Parties to make use, within the context of the refugee crisis, of the specific co-operation tools already available in the framework of Europol/Interpol which are specifically aimed at identifying victims of sexual exploitation and sexual abuse (R33).

Fight against corruption (GRECO)

The 'Group of States against Corruption' ([GRECO](#)) monitors all its members through a "horizontal" evaluation procedure within thematic evaluation rounds. The evaluation reports contain recommendations aimed at furthering the necessary legislative, institutional and practical reforms. Subsequently, the implementation of those recommendations is examined in the framework of a "compliance procedure", assessing whether they have been implemented satisfactorily, partly or have not been implemented 18 months after the adoption of the evaluation report.

Fourth Evaluation Round: "Corruption prevention in respect of members of parliament, judges and prosecutors".

On 6 March 2018, GRECO published Portugal's Compliance Report. It is available here: <https://www.coe.int/en/web/greco/evaluations/portugal>. GRECO concluded that the current very low level of compliance with the recommendations is "globally unsatisfactory" and decided to start a non-compliance procedure. The Portuguese authorities are due to report to GRECO again at the latest by 31 December 2018.



GRECO_EvalIV20155
E_Portugal.pdf

Execution of judgments and decisions of the European Court of Human Rights

Statistical data

At 31 December 2017, there were 38 (41 cases at 31.12.2016) cases against Portugal pending before the Committee of Ministers for supervision of their execution. Among these cases, 14 cases were "leading cases" evidencing more or less important general problems (13 leading cases at 31.12.2016).

In 2017, the CM was seized by 3 new leading cases (9 new leading cases in 2016) and the amount of just satisfaction awarded was € 157,635 (€ 2,400,619 awarded in 2016). In 2018¹, the CM was not seized by new leading cases. In 2017, 19 cases (120 cases closed in 2016) were closed by the adoption of a Final Resolution.

Main cases / groups of cases under the Committee of Ministers' supervision

The main case presently under the Committee of Ministers' supervision cover notably the issues presented below. For fuller overview of the situation see the *Country Factsheets* available on the website of the Department for the Execution of Judgments of the European Court of Human Rights and in the *Committee of Ministers' Annual Reports* on its supervision activity. More detailed information on the status of execution in individual cases can be found through *Hudoc-EXEC*.

¹ Statistical data at 22/06/2018.

Excessive length of judicial proceedings revealing a structural problem in the administration of justice

Vicente Cardoso group, Application No. 30130/10, judgment final on 12/03/2013, enhanced supervision

Failure of the Court of appeal to hear, in 2007, the accused in person in criminal proceedings instituted against her for threats and insults and resulting in her conviction to 265 hours of community service

Moreira Ferreira, Application No. 19808/08, judgment final on 5/10/2011, standard supervision

Disproportionate civil convictions of journalists and professors for attacking the reputation of public officials in the press

Medipress group, Application No. 55442/12, final on 30/11/2016, standard supervision

Difference in treatment based on age and sex due to a decision of the Supreme Administrative Court which led to the reduction of the amount of compensation awarded to a woman following a medical malpractice

Carvalho Pinto De Sousa Morais, Application No. 17484/15, final on 25/10/2017, standard supervision

Social and Economic Rights (ECSR)

The European Committee of Social Rights (ECSR) monitors compliance with the [European Social Charter](#) under two procedures: the national periodic reporting system and the collective complaints procedure. Following a decision taken by the Committee of Ministers in 2006, the provisions of the Charter have been divided into four thematic groups. States present a report on the provisions relating to one of the four thematic groups on an annual basis. Consequently each provision of the Charter is reported on once every four years.

Portugal

<http://rm.coe.int/CoERMPublicCommonSearchServices/DisplayDCTMContent?documentId=09000016806b7963>



ESC_portugal.pdf

Venice Commission

The [European Commission for Democracy through Law](#) (Venice Commission) is the Council of Europe's advisory body on constitutional matters. It provides States and international organisations working with it (EU, OSCE/ODIHR) with legal advice in the form of opinions.