



european network against racism

ENAR Shadow Report 2010-2011

ENAR SHADOW REPORT

Racism and related discriminatory practices in Portugal

**Portuguese Association for Victim Support
APAV**

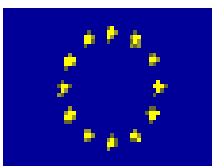
Racism is a reality in the lives of many ethnic and religious minorities in the EU. However, the extent and manifestations of this reality are often unknown and undocumented, especially in official data sources, meaning that it can be difficult to analyse the situation and to establish solutions to it.

The ENAR Shadow Reports are produced to fill the gaps in the official and academic data, to offer an alternative to that data and to offer an NGO perspective on the realities of racism with the EU and its Member States. NGO reports are, by their nature, based on many sources of data, official, unofficial, academic and experiential. This allows access to information which, while sometimes not backed up by the rigours of academic standards, provides the vital perspective of those that either are or work directly with those affected by the racism that is the subject of the research. It is this that gives NGO reports their added value, complementing academic and official reporting.

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I. Executive summary

Although the aim of this report is to analyse the year 2010 in matters of racism and related discrimination, it's possible to notice in this report, that no new developments regarding legislation took place. However, some new political developments can be noted.

Brazilians are the community with the highest scores in terms of discrimination complaints, followed by People of African descent. Roma are also particularly vulnerable, given the high number of complaints.

Racism and related discrimination in employment: studies have shown that most of the discrimination suffered by minority groups in employment is not related to verbal or direct injuries, but to unequal conditions of work (insufficient salary, excessive working hours, among other aspects), matters that should be taken in account by official data.

- **Recommendation:** Create official data comparing the conditions of work of national and foreign employees and enforce public campaigns to improve the situation of migrants.

Racism and related discrimination in housing: most of the discrimination related to housing is related to precarious conditions of the houses and the neighbourhoods where immigrants live, since this group is highly affected by social exclusion.

- **Recommendation:** examine the number of immigrants living in precarious conditions and their needs in this matter in order to establish adequate policies

Racism and related discrimination in education: despite the encouraging scores of Portugal regarding education (i.e. 4th place) on the MIPEX report, there are still some gaps to fill, like the outlying parent-teacher relationship and the necessity for a more heterogenic education, aiming at a more diverse cultural education.

- **Recommendation:** Improve national statistics introducing nationality and ethnic variables in the reports, and provide training to professionals.

Racism and related discrimination in health: although access to health services is ensured by law, if an undocumented immigrant doesn't apply for Social Security, he is required to pay the total amount of the extremely expensive medical treatments. Also, it seems that migrants continue to feel some linguistic and cultural barriers, and the prejudice in the attitude of professionals towards immigrant and ethnic minorities is still a reality.

- **Recommendation:** To raise awareness through national campaigns about immigrant rights and provide a more protective law to undocumented immigrants.

Racism and related discrimination in criminal justice: recent studies have shown that immigrants and ethnic minorities are more subjected to preventive prison, to tougher penalties and to a longer time of imprisonment when compared to Portuguese defendants. This is related to the types of crimes connected to the foreign population and is also a result of discrimination by law enforcement authorities, especially because of ethnic profiling.

- **Recommendation:** To create an independent body to monitor authorities and establish a new crime category – Hate Crime.

Racism and related discrimination in access to goods and services: in this chapter, it's possible to become aware that more than half of Roma people have felt, at one given moment, discriminated or badly treated by the Police. In what concerns to the financial market, there's still enormous discrimination and stereotype standards, since banks often see the potential immigrant clients as being less qualified, having a complicated and fragile economic situation and therefore not worthy of the bank's investment.

- **Recommendation:** create policies to facilitate the immigrants' access to credit and promote awareness raising campaigns targeting public officials.

Racism and related discrimination in the media: Even though the past years the Portuguese media have made a huge effort to abolish stereotypes over the news, it's still possible to notice some subtle discrimination within the press. Regarding the internet, there has been an increase of racist websites in the past years, having Roma and immigrants as the main target groups.

- **Recommendation:** develop official statistics about discrimination in the media and provide special trainings for professionals in this area.

Political and legal developments in anti racism and anti discrimination: in the past years there has been notable improvements in the legal and political agenda concerning the integration of immigrants and the fight of racial discrimination, denoted by the creation of ACIDI and national plans aiming at their integration.

- **Recommendation:** disseminate annual reports and provide more financial support to NGOs working directly with immigrants.

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III. Introduction

Over the last year, Portugal faced a serious economic crisis along with a political crisis. Even though the latter seems to be over now, following the election of a new government, the economic crisis that hit Portugal over the last 2 years can still represent a risk factor for migrants facing situations of discrimination.

Portugal has been pointed out as the 2nd best country with immigrants' inclusion policies in the 2010 MIPEX¹ ranking. However, and regardless of the positive evaluation, Portugal still has a long way to go, since in many people's lives, racism and discrimination is still a reality.

According to the Immigration and Border Services (SEF) 2010 report², there were approximately 450.000 immigrants holding a residence permit (representing almost 5% of Portugal's population). To add to this figure, almost 50 thousand³ Roma people are currently living in Portugal. With such expressive numbers, the Portuguese government should implement and develop measures and legislation regarding a more protective system towards minorities.

In order to do so, it's imperative to discover which are the areas of discrimination and to realise that more investigation and monitoring centres are required. In fact, the lack of national and continuous reports in Portugal is a reality that demands urgent investment by the government.

This report analyses the period between March 2010 and March 2011. Our expectation is that we can contribute to a better understanding of discrimination in Portugal.

¹ Migrant integration Policy Index, <http://www.mipex.eu/portugal>, accessed 4 July 2011.

² Service of emigration, http://sefstat.sef.pt/Docs/Rifa_2010.pdf, accessed 4 July 2011.

³ U.S Department of state, diplomacy in action, <http://www.state.gov/documents/organization/160209.pdf>, accessed 4 July 2011.

IV. Communities vulnerable to racism and discrimination

As in the majority of European countries, discrimination practices in Portugal frequently target racial or ethnic minority groups, which are composed of immigrants of first and subsequent generations and the most targeted of these groups is the Roma.

Despite the recognised migration flow towards the country, Portugal is traditionally seen as a sending state (it is estimated that almost 5.500.000 Portuguese nationals live abroad, more than a half of the resident population)⁴. Portugal also became a country of destination in the early 1970's, due to two main factors: the independence of some African colonies in the late 1960's and the end of the dictatorial regime in 1974.

Most immigrants during the 70's came from former colonies, such as Cape Verde, Angola, Mozambique and Guinea-Bissau.⁵ Between 1980 and 2000, the number of immigrants increased and there was a new flow of immigration from other countries, such as Brazil, Angola and Eastern European countries⁶.

In 2010, 4,3% of the resident population in Portugal was composed of immigrants (approx. 457.000 people). The largest immigrant community is Brazilian (25,5%), followed by Ukrainian (11,55%), Cape Verdean (10,8%), Romanian (7,1%) and Angolan (5,9%).⁷ The official census of 2011⁸ showed that the growth of the Portuguese population was 91% due to the migration balance and only 7% due to the birth rate.

As statistics show, the immigration inflow changed the structure of the Portuguese population substantially and forced the government to improve its integration policies throughout the years. In recent decades Portugal has made notable efforts to fight labour exploitation, which is the main issue concerning undocumented immigrants. A good example of these efforts is the agreement that was signed with Brazil in 2003 to legalise the situation of undocumented Brazilian migrants living in national territory.

Besides these measures, there were also substantial changes in the Portuguese legislation related to immigration, such as the law for entry, stay and exit of foreigners into, in and from the national territory (Law n^o 23/2007), which has

⁴ SANTOS, Tiago, et. al., "Research Survey on Migrants' Experiences of Racism and Discrimination in Portugal", p. 15.

⁵ Ibid.

⁶ Ibid.

⁷ Eurostat Report on Population and Social Conditions 2010, consulted in http://epp.eurostat.ec.europa.eu/cache/ITY_OFFPUB/KS-SF-11-034/EN/KS-SF-11-034-EN.PDF

⁸ Instituto Nacional de Estatística, consulted in http://censos.ine.pt/xportal/xmain?xpid=CENSOS&xpgid=ine_censos_publicacoes, accessed 28 September 2011.

extended the possibilities for the regularisation of undocumented migrants, and the new law about nationality (Law nº 37/81, modified by Law nº 2/2006⁹), which extended the possibilities for migrants to acquire Portuguese nationality.

As well as being a chosen destination for immigrants over the past decades, Portugal has also become a destination for smuggled and trafficked people, which has increased the number of foreigners living in the country (in particular the number of undocumented immigrants).

All immigrant groups in Portugal are potential targets of racism and racial discrimination, since they form a minority group within Portuguese society. Discrimination, in this case, is usually related to their nationality or racial origin, especially for Africans.

Several studies in Portugal show that Africans with a black phenotype are the group which is most susceptible to public manifestations of discrimination. Research carried out with 800 people from Cape Verde and Guinea-Bissau showed that 48% of them *have been subjected to threats, insults or other forms of harassment in public spaces* in the previous year¹⁰.

Aside from the above mentioned groups, the Roma are a community that is also vulnerable to racism and discrimination in Portugal. They are the only ethnic minority group in Portuguese society¹¹ and they suffer the most discrimination.

Since most Roma in Portugal either have Portuguese nationality or are undocumented, it is hard to tell the precise the extent of this population. It is estimated that between at least 40.000 and 50.000 Roma are currently living in Portugal, most of them in precarious conditions in terms of housing and access to basic services.¹²

In order to improve the living conditions of Roma in Portugal, the Portuguese Government created a project to promote their rights and their integration in to the community. The project is currently carried out by the High Commissioner for Immigration and Cultural Dialogue (ACIDI) and it gave rise to multiple projects within this community. Despite these efforts, Roma are still the most discriminated against people in Portuguese society.¹³

⁹ PGDLisboa, consulted in http://www.pgdlisboa.pt/pgdl/leis/lei_main.php, accessed in 28th september 2011.

¹⁰ SANTOS, Tiago, et. al., Ibid, p. 84.

¹¹ FONSECA, Ernesto Paulo, et. al., "Representações Sociais da Comunidade Cigana e Não-Cigana: Implicações para a Integração Social", ACIME 2005.

¹² ECRI Third Report on Portugal, Council of Europe, 2006.

¹³ SANTOS, Tiago, Ibid.

V. Racism and related discrimination in employment

VII.i Manifestations of racism and related discrimination in employment

The absence of official data in Portugal concerning racial discrimination in employment hinders the actual knowledge of this phenomenon. The available statistics are related to the immigrants' integration into the job market and their access to employment, setting aside information about direct discrimination issues.

As studies show, most of the discrimination suffered by minority groups in Portugal (immigrants and Roma) is not related to verbal abuse or physical injury, but to unequal conditions of work (insufficient salary, excessive working hours, among other aspects).¹⁴

In 2008, 5,5% of the employed population were immigrants, totalising 178.208 people¹⁵. According to ECRI, in 2006 it was estimated that 200.000 undocumented immigrants lived in Portugal, probably working illegally, in precarious conditions, in unqualified and underpaid jobs, and in a situation of inferiority compared to Portuguese citizens.¹⁶

A report¹⁷ on immigrant employment conditions revealed that immigrants usually occupy positions that are substantially below their academic or professional qualification. Besides that, the research revealed that immigrant workers earned, at that time, 17% less than Portuguese workers. Nowadays the situation appears to remain the same, as the 2008 Ministry of Labour's statistics show that the average salary of an immigrant is €723,57 while the average salary of a Portuguese citizen is €843,20. Immigrant women receive less than Portuguese citizens and immigrant men, their salary being around €618,50.¹⁸

Concerning other kinds of discrimination, a Survey on Migrants' Experiences of Racism and Discrimination in Portugal shows that minority groups can also experience situations where they: are refused jobs (most of Guinea-Bissau nationals); refused promotion (most of Ukrainians); and suffer insults or harassment (most Brazilians, especially women) based on their nationality and background.¹⁹ The same study shows that the biggest issue with Roma in this regard concerns their integration into the job market, since most of this

¹⁴ European Monitoring Centre on Racism and Xenophobia, "Migrants, Minorities and Employment in Portugal. Exclusion, Discrimination and Anti-Discrimination" report, 2002.

¹⁵ Ministry of Labour and Social Solidarity, official statistics 2008.

¹⁶ ECRI Third Report on Portugal, 2006.

¹⁷ Ministry of Labour and Social Solidarity, official statistics 2008.

¹⁸ Ibid.

¹⁹ SANTOS, Tiago, et. al., "Research Survey on Migrants' Experiences of Racism and Discrimination in Portugal".

community is only trained for street vending and fairs,²⁰ and need proper training in order to occupy other positions.

Examples of NGO Good Practice

Since 2009, several NGOs around the country have created Cabinets for Professional Inclusion for immigrants, as a result of a partnership with ACIDI and the Portuguese Institute for Employment and Professional Training (IEFP).

VII.ii The political and legal context

The first Portuguese law against racial discrimination in employment was created in 1999 (Law n^o 134/99)²¹, punishing the adoption of measures, criteria or proceedings linked to racial factors with regard to job offers and working conditions.

This law inspired changes in the labour legislation, which came about in 2003 (Labour Code). With Law n^o 99/2003, the Labour Code started to prohibit direct and indirect discrimination by employers, linked specifically to nationality and ethnic origin, also prohibiting harassment connected to racial factors.

In 2004, a new law (n^o 18/2004)²² on racial discrimination was approved in Portugal, applying the Directive n^o 2000/43/CE of the European Council, which intends to establish a legal framework against racial discrimination in all EU Member-States. Following the Directive, the Law n^o 18/2004 defines the principle of equal treatment and punishes racial discrimination in several areas, including employment.

With the implementation of Law n^o 18/2004, the Labour Code was once again modified, strengthening the fight against racial discrimination in employment. This alteration brought to the Portuguese legal order the definition of direct and indirect discrimination and punishes discrimination acts on job access and work conditions.

The new law of entry, stay and exit of the national territory (Law n^o 23/2007)²³ also intends to improve the conditions of immigrants in employment, allowing undocumented immigrants to legalise their situation when they obtain a work

²⁰ ECRI Third Report on Portugal, 2006.

²¹ http://www.pgdlisboa.pt/pgdl/leis/lei_mostra_articulado.php?nid=230&tabela=leis&ficha=1&pagina=1&

²² http://www.pgdlisboa.pt/pgdl/leis/lei_mostra_articulado.php?nid=231&tabela=leis&ficha=1&pagina=1&

²³ http://www.pgdlisboa.pt/pgdl/leis/lei_mostra_articulado.php?nid=920&tabela=leis&ficha=1&pagina=1&

contract. However, the legalisation process depends on the employers' cooperation, since they must ensure a valid work contract and must also pay all Social Security contributions on behalf of the worker, which can make it a difficult process and also hold back undocumented immigrants from obtaining a residence permit.

In 2010/2011 there has been no legal development concerning discrimination in employment.

Since most of registered discrimination in employment is related to unequal working conditions, the policies established to fight discrimination in this area aim to improve the immigrants' working conditions and to promote their rights²⁴. MIPEX concluded that, with regard to MIPEX countries, Portugal made the 'Greatest recent progress on targeting immigrants' specific employment situation.'²⁵ MIPEX countries include: all European Union Member States plus Norway, Switzerland, Canada and the USA.

Yet, there is still a gap concerning working conditions for the Roma, since most policies target immigrant groups and do not meet the special needs of ethnic minority groups (especially the Roma with Portuguese citizenship).

²⁴ II National Plan for Immigrants' Integration for 2010-2013 (Plano Nacional para Integração de Imigrantes).

²⁵ MIPEX Portugal, <http://www.mipex.eu/portugal>.

VI. Racism and related discrimination in housing

VI.i Manifestations of racism and related discrimination in housing

Housing has always been an issue for immigrants in Portugal. When the first immigration flows arrived in the early 80's from African countries, most of this population tried to settle in the Lisbon area. However, at that time the law forbade landlords from rising rent, blocking the mobility of the housing market since tenants usually stayed in the same house for their whole life. With almost no houses available for rent, the other option left for immigrants was to buy a house, but they couldn't also obtain loans from Portuguese banks.²⁶

As a consequence, most immigrants started to live in tents in Lisbon suburbs, forming poor and excluded neighbourhoods.

In 1993 the Portuguese government implemented a program²⁷ to demolish these neighbourhoods and give proper housing to the population. This was the first time that the conditions of housing for immigrants were explored and it was discovered that at least 30% of African immigrants lived in precarious conditions, segregated from the rest of the population.²⁸

Nowadays the Portuguese government has no official data concerning the housing conditions of immigrants and ethnic minorities. However, there are some research studies and European reports on this subject (mentioned below).

Notwithstanding the lack of official data, studies show that immigrants and Roma are subject to discrimination when trying to rent or to buy a house. A large part of this discrimination occurs when the banks require extra guaranties for foreigners in order to approve a loan for buying a house, such as a Portuguese guarantor. This practice is also current among proprietors, who usually demand a guarantor that is a Portuguese national, which is almost always an obstacle for immigrants since their closest friends or relatives are usually of their same nationality²⁹.

Most discrimination complaints are made to immigrants associations instead of being directed at official organisms, which indicates that immigrants living in Portugal appear to have more trust in non-governmental organisations. Some of the more important NGOs that fight racism in Portugal have noticed that immigrants frequently report situations of discrimination in relation to housing, especially concerning the guaranties that are usually required to buy or rent a house, as mentioned before.³⁰

²⁶ FARINHA, Tiago, 'Habitação e Discriminação em Portugal'. ACIDI, Revista BI nº 26.

²⁷ Programa Especial de Realojamento (Special Re-Housing Program).

²⁸ FARINHA, Tiago, Ibid.

²⁹ Fundamental Rights Agency (FRA), 'National Analytical Study on Housing', RAXEN Focal Point Portugal, 2003.

³⁰ Idem.

Even though these situations are not rare, from 2000 to 2003 there were only three official complaints before the Commission for Equality and Against Racial Discrimination (CICDR) concerning discrimination in housing.³¹

Besides the immigrant community, studies shows that Roma faced even more obstacles to access their right to housing. In addition to being subjected to the same demands as immigrant groups when trying to buy or rent a house, Roma are also targets of more direct discrimination such as when public authorities decided to cut off the water and power supply to certain tents in order to oblige the community to leave, or when the neighbours of social housing refused to live near to Roma families.³²

Examples of NGO Good Practice

Pedro Arrupe Centre ³³ (CPA), from the Jesuit Refugee Service (JRS), is a specialized unit to people with integrative difficulties providing a community housing. CPA provides to their clients an individualized attendance based on a multidisciplinary intervention, aiming the client independence.

VI.ii The political and legal context

The Constitution of the Portuguese Republic states that the right to housing applies to everyone, Portuguese and foreign citizens. In order to provide this right, the Portuguese government, among other measures, must develop housing policies, promote the construction of social houses, encourage local communities' initiatives to solve their housing problems and adopt policies to establish a system of rents that are compatible to family incomes.

The Constitution also prohibits discrimination of any kind and, following the constitutional command the law n^o 18/2004 considers discrimination the *refusal or restriction of sale, lease or sublease of properties* based on the national or ethnic origin of the person.

Since housing conditions are also a matter in which minorities feel discriminated against, the legal framework in this area is important to guarantee their social inclusion. For this matter, we have the *Regime Jurídico da Urbanização e Edificação* (Juridical System of Urbanisation and Construction), which regulates

³¹ Idem.

³² Fundamental Rights Agency (FRA), Portugal RAXEN National Focal Point, "Housing conditions of Roma and Travellers", March 2008.

³³ Jesuit Refugee Service, consulted in <http://www.jrsportugal.pt/conteudo.php?AHIBYFMz=AEEBUEVMV&AHIBYFM9=ADABNINj&AG4BaFM6UTNRdQMw=AHIBdQtela9Xr1tela9Xr1>, accessed 28th September 2011.

the construction of new buildings and the legalisation of illegal houses. Regarding social housing, access to this benefit is regulated by local authorities and not by national legislation.

None of this legislation targets minority groups specifically, but by improving the housing conditions of the general population, it benefits them.

The first time that immigrants and ethnic minorities benefited from housing policies in Portugal was in the early 1990's, when the *Plano Nacional de Realojamento* (Special Re-Housing Program) was implemented. Although this plan didn't specifically target those groups, but the population in general, it is true that many immigrants were assisted, since most of the population that lived in shanties at that time were immigrants from Africa, Portuguese citizens with African backgrounds, and Roma.³⁴

In the current political context, the *Plano Nacional para Acção e Inclusão* (National Plan for Action and Inclusion) for 2008-2010 provides special measures to promote the social inclusion of immigrants and Roma, especially through access to housing.³⁵ Also, the *Plano para Integração de Imigrantes* (Immigrants Integration Plan) for 2010-2013 provides measures targeting the improvement of immigrant's housing conditions, such as to:

- Develop and open the housing market for immigrants;
- Create new solutions for social housing, in cooperation with immigrant associations and NGOs;
- Improve access to leasing supports;
- Consolidate the immigrants' access to social housing;
- Implement social intervention plans targeting immigrants' communities.

Even though the Portuguese legislation provides mechanisms to quash discrimination against immigrants and ethnic minorities in housing, and establishes policies to improve their housing conditions, there should be more effort by the government to acknowledge the actual housing situation of immigrants, in order to properly address discrimination. In fact, the current lack of data hampers the development of appropriate legal and political measures, keeping a large number of immigrants and Roma in precarious housing conditions and vulnerable to other forms of discrimination.

³⁴ Fundamental Rights Agency (FRA), "National Analytical Study on Housing", RAXEN Focal Point Portugal, 2003.

³⁵ <http://www.pnai.pt/>

VII. Racism and related discrimination in education

VII.i Manifestations of racism and related discrimination in education

Analysing the most recent available statistical data³⁶ on education in Portugal, it is possible to understand that in the last 10 years, the rate of education drop-outs and withdrawals have decreased. In 2000, 12.3% of elementary education students left education and 39.5% of secondary education students also dropped out of the education system. In 2009, these numbers suffered a significant decrease, with 7.6% of students dropping out of elementary education and 18.9% of students leaving secondary education.³⁷

According to the latest MIPEx³⁸ report, in the matter of immigrants' integration in the education system, Portugal is ranked in 4th place. The MIPEx researchers identified some issues that should be undertaken by the Portuguese government, mentioning that schools aren't an integration motor for immigrant students³⁹ and that there are still some issues within the professor-parent relationship that can affect the success of the integration of students, such as language and cultural differences.⁴⁰

Additionally, the quality of education provided to migrant students is not necessarily high. Regarding the professionals working in schools, e.g., professors and assistants, they are not culturally diverse and do not have resources for addressing intercultural issues⁴¹, and so students are not prepared for working with people from a different background or culture.⁴²

As far as bullying is concerned, few studies of the problems facing migrant and ethnic groups have been conducted in Portugal.⁴³ However, and according to the latest report of the Ministry of Internal Affairs (MAI),⁴⁴ it's possible to notice an

³⁶ http://www.gepe.min-edu.pt/np4/?newsId=332&fileName=EE_TaxaRetencaoDesistencia_total.pdf

³⁷ http://www.gepe.min-edu.pt/np4/?newsId=332&fileName=EE_TaxaRetencaoDesistencia_total.pdf

³⁸ MIPEx – Portugal, <http://www.mipex.eu/portugal>

³⁹ Ibid.

⁴⁰ Ibid.

⁴¹ 2009 – Relatório de Desenvolvimento Humano: Ultrapassar barreiras, Mobilidade e desenvolvimento humanos, in <http://www.acidi.gov.pt/cfn/4d42e5f09a032/live/Relat%C3%B3rio+de+Desenvolvimento+Humano+2009+Ultrapassar+barreiras%3A+Mobilidade+e+desenvolvimento+humanos>

⁴² MIPEx – Portugal, <http://www.mipex.eu/portugal>

⁴³ Carvalhosa, S. F., Moleiro, C., & Sales, C. (2009). S Situação do Bullying nas Escolas Portuguesas. *Interacções*, 13, 125-146.

⁴⁴ Relatório Anual de Segurança Interna – 2010, in http://www.mai.gov.pt/data/documentos/Relatorios%20Seguranca%20Interna/Relatorio%20Anual%20de%20Seguranca%20Interna%202010_vf.pdf

increase of criminality within Portuguese schools, but specifically with regard to bullying, there is not any official data available.

Examples of NGO Good Practice

The Portuguese Association for Victim Support (APAV) conducts several awareness raising campaigns in schools about support to victimized children, including children with a foreign background.

The project “4D - integrated prevention in schools” is a good example of this intern policy. This project that ended in 2010, aimed at the strengthening and consolidation of an integrated prevention of crime and discrimination in schools.

Another good example of this NGO is the project “Lead – Inform to Prevent” that started in the beginning of 2011. The aim of this project is the dissemination of specific information to children and adolescents facing street and peer violence. This project is promoted by APAV and cofinanced by the Programme Daphne III under the DG Justice.

VII.ii The political and legal context

In 2010 the High Commission for Immigration and Intercultural Dialogue (ACIDI), a public institute under the Presidency of the Council of Ministers, launched the second Plan for Immigrant Integration (PII),⁴⁵ with 90 specific measures for immigrant integration policies.

Besides all the education measures established within this PII, for instance reinforcing training in intercultural dialogue as part of ongoing teacher training, or the improving of statistical data on cultural diversity in schools,⁴⁶ ACIDI goes deeper by presenting a change of the legal framework regarding regulatory offences. The goal is to address every case of racial and ethnic discrimination reported to ACIDI,⁴⁷ making the regulatory offences’ resolution a quicker and simpler process.

Although including measures considered fundamental for immigrants’ healthy integration into Portuguese society, this second PII doesn’t cover some existing gaps, such bullying in schools.

⁴⁵ ACIDI, 2011 – II Plan for Immigrant Integration [2010-2013], in http://www.acidi.gov.pt/_cfn/4d346c9b80687/live/Consulte+a+vers%C3%A3o+da+Plano+2010-2013+em+Ingl%C3%AAs

⁴⁶ Ibid.

⁴⁷ Ibid.

The Portuguese NGO 'SOS *Racismo*'⁴⁸ also points out another gap in this PII, regarding teacher training, highlighting that the voluntary aspect of this measure gives each school the autonomy to decide whether to train their teachers in this area, instead of it being a mandatory.

Also in the political context, it must be highlighted that the *Programa Escolhas* (Choices Program), carried out by ACIDI to promote the educational inclusion of children, especially children with a immigration background, was renewed by the Portuguese government for 2010-2012.⁴⁹

Concerning discrimination complaints, of all the complaints presented in 2010 (a total of 89), only six of them were related to discrimination in education, being 2 of these related to practices carried out in a higher education context⁵⁰.

⁴⁸ 2011 - <http://invirtus.net/in/story.php?title=SOS-Racismo-c%3%A9ptico-sobre-aplica%3%A7%3%A3o-do-Plano-de-Integra%3%A7%3%A3o-dos-Imigrantes-na-educa%3%A7%3%A3o>

⁴⁹ MIPEX – Portugal, <http://www.mipex.eu/portugal>

⁵⁰ http://www.acidi.gov.pt/_cfn/4d346bd641db7/live/Relat%3%B3rio+de+Actividades+do+ACIDI+%282010%29

VIII. Racism and related discrimination in health

VIII.i Manifestations of racism and related discrimination in health

Following international laws and recommendations, Portugal's legislation regarding undocumented immigrants is very clear – undocumented immigrants have the right to access the National Health System (SNS) by proving their residency in Portugal for a minimum period of 90 days, attested by the local authorities⁵¹. Although access to health services is ensured, if an undocumented immigrant does not apply for Social Security, he is required to pay the total amount of the extremely expensive medical treatments.

Another gap within the health system concerns to the linguistic and cultural barriers that this population has to face, with almost 23% of the people feeling that there are some linguistic or cultural barriers.⁵² Actually, the linguistic barrier seems to be quite a worry since more than half of the people asked by a national study admitted to having some difficulties with communication in the patient/professional relationship.⁵³ According to the author, it's not that uncommon to have immigrants leaving the health centre without understanding a word of the appointment, mainly Chinese and Indian people seem to have the biggest troubles with communication.⁵⁴

Regarding the attitudes of the healthcare professionals, there's still some prejudice in the attitude of professionals towards immigrant and ethnic minorities. Discrimination is even more specific depending on whether these clients contribute to the welfare system or not.⁵⁵

Examples of NGO Good Practice

Médicos do Mundo (Doctors of the World) provides medical support to undocumented migrants (as well as to other populations) from clinic analyses (i.e., HIV tests), to medical care treatments and medicines, totally free of charge, through the campaign “*Saúde sem Papéis*” (Health with no Papers). *Médicos do Mundo* has a vehicle that drives to strategic neighbourhoods in Lisbon in order to carry out this work.

⁵¹ DL -94/1999, 22nd April, 34^o art.

⁵² Fonseca, M. L., & Silva, S. (2010). *Saúde e Imigração: relação entre utentes e serviços no Centro de Saúde da Graça*. ACIDI: Lisboa.

⁵³ Ibid.

⁵⁴ Ibid.

⁵⁵ Ibid.

VIII.ii The political and legal context

Discrimination in access to healthcare is punished by Law nº 18/2004 as a regulatory offence. Although it is punishable by law, unfortunately almost no cases have been reported to the authorities (as ACIDI's statistics shows, only two cases were reported in 2010)⁵⁶.

Although there are no common standards⁵⁷ regarding combating racial or ethnic discrimination in health services in Portugal, there were some intentional policy developments over the last year through the National Health Plan (2011-2016). According to it, as a first step to monitor the health system, Portugal should decide on the importance of creating a monitoring centre⁵⁸ in order to analyse data and consequently improve and develop measures to achieve its goals.

Also, and in accordance with the National Plan, one of the goals of the Directorate-General for Health (DGS) is to develop the interpersonal and communication skills of health professionals.⁵⁹ This measure is quite relevant for vulnerable groups like immigrants, the elderly, etc, and is also included in the Second Plan for Immigrant Integration, reinforcing the need to improve these skills.

This National Health Plan goes along with the Second Plan for Immigrant Integration. According to measure 35, there is a clear intention to promote the access to health care system for immigrants, and reducing inequalities in the health system.⁶⁰ In accordance with both Plans, the main goal of this measure is to allow immigrants to access health services when they need to, as well as to inform immigrants of their rights and duties.⁶¹

⁵⁶ http://www.acidi.gov.pt/_cfn/4d346bd641db7/live/Relat%C3%B3rio+de+Actividades+do+ACIDI+%282010%29

⁵⁷ 2007, <http://www.numena.org.pt/ficheiros/Migrants%20Experiences%20of%20Racism.pdf>

⁵⁸ 2011 - http://www.acs.min-saude.pt/pns2011-2016/files/2011/02/cs-cs_17-03-20111.pdf

⁵⁹ Ibid.

⁶⁰ 2011 -

http://www.acidi.gov.pt/_cfn/4d346c9b80687/live/Consulte+a+vers%C3%A3o+da+Plano+2010-2013+em+Ingl%C3%AAs

⁶¹ Ibid.

IX. Racism and related discrimination in criminal justice

IX.i Manifestations of racism and related discrimination in criminal justice

There is no official data in Portugal concerning the racism and discrimination that is experienced by immigrants and ethnic minorities in relation to criminal justice. Leaving aside official information, there are some reports in this domain, carried out by researchers and universities, especially in the area of sociology.

The first studies in the area were carried out in the early 90's and the last one published was in November 2010,⁶² all of them reached two essential conclusions: the first is that the foreign population is overrepresented among the inmate population in prisons in Portugal, and the second is that foreigners have a larger probability of being subjected to criminal charges and to imprisonment.

The fact that foreigners are more likely to be criminally charged could be related to the social exclusion that affects a substantial part of the immigrant population in Portugal, leading to property crimes and drug trafficking.

However, besides the social issues that are associated with criminality, recent studies have shown that foreigners are effectively subjected to discrimination by the Portuguese judicial system, since statistics reveal that they receive more severe penalties and longer time periods of imprisonment, which apparently do not rely on facts other than their national origin or ethnicity.⁶³

Indeed, the 2010 statistics of the Portuguese justice system show that 20% of the inmate population in that year was composed of foreigners, and 35% of them were in preventive detention (among the Portuguese inmate population, only 15% of them were in preventive detention).⁶⁴ The larger number of foreigners in preventive detention is often justified by magistrates through the assumed risk of foreigners escaping from the Portuguese territory.⁶⁵

Concerning the penalties received by foreigners in Portugal, studies have shown that the longer period of imprisonment attributed to them in comparison to the period attributed to nationals is due to crimes in which foreigners are more often involved (mainly drug trafficking) and to the propensity of the magistrates to penalise non-national defendants more severely.⁶⁶

⁶² ACIDI, "Percurso de Estrangeiros no Sistema de Justiça Penal", Observatório da Imigração, November 2010.

⁶³ Idem, p. 202.

⁶⁴ Estatísticas da Justiça 2010, consulted in <http://www.siej.dgpj.mj.pt/SIEJ/PDFs/Execução%20de%20penas%20e%20medidas%20de%20intervenção%20social/DGSP.pdf>

⁶⁵ ACIDI, "Percurso de Estrangeiros ...".

⁶⁶ Idem.

IX.i.i Policing and ethnic profiling⁶⁷

The overrepresentation of non-nationals in the Portuguese criminal justice system can be related to ethnic profiling by the police: during stop and search efforts police officers choose their targets by their external aspects (i.e., skin colour, ethnicity and clothing), choosing more often those people whose appearance does not conform to the standard of the Portuguese population, which is considered the “ideal”⁶⁸. Through their behaviour, the police choose that immigrants and ethnic minorities enter the criminal justice system.

During the criminal process the law enforcement authorities also seem to act based on ethnic profiling, since foreigners are more often charged and subjected to imprisonment, as mentioned before.

The occurrence of ethnic profiling by police officers indicates the discrimination against minority groups in Portugal, leading this population to distrust the police and the criminal justice system. Indeed, a report written by FRA in 2009, which interviewed 23 thousand people in the EU, shows that 44% of the Brazilian population in Portugal have suffered discrimination from the police, which is the highest level in the EU. Among those who have suffered discrimination from the police, 100% of the sub-Saharan community and 98% of the Brazilian community residing in Portugal chose not to report the crime believing that it would not change their present status.⁶⁹

IX.i.ii Racist violence and crime

According to an OSCE report from 2010,⁷⁰ Portugal does not have official data on hate crimes (motivated by racism/xenophobia). ACIDI provides statistics on the number of complaints of discrimination as a regulatory offence (see below *The political and legal context*). According to those statistics, in 2010 a total of 89 complaints were received, and 22 of them resulted in a formal process (the rest were incomplete or related to other issues away from CICDR's⁷¹ jurisdiction).

⁶⁷ The Open Society Institute defines “ethnic profiling” as the “use of generalisations grounded in ethnicity, race, national origin, or religion - rather than objective evidence or individual behaviour - as the basis for making law enforcement and/or investigative decisions about who has been or may be involved in criminal activity” .

⁶⁸ ACIDI, “Percurso de Estrangeiros ...”.

⁶⁹ “*Imigração. Abordagem da Polícia Portuguesa é das mais Ofensivas*”, <http://www.ionline.pt/conteudo/84415-imigracao-abordagem-da-policia-portuguesa-e-das-mais-ofensivas>

⁷⁰ Organisation for Security and Co-operation in Europe (OSCE), “Hate Crimes in the OSCE Region – Incidents and Responses”, November 2010.

⁷¹ Comissão for Equality and Against Racial Discrimination (CICDR) is a comissão of ACIDI responsible to receive and process discrimination complaints.

Besides the received complaints, in 2010 CICDR provided 21 decisions, two of which were convictions for racial discrimination.

Despite the absence of official data on crimes of discrimination, some cases were reported by the media and by NGOs, such as International Amnesty, which published a report on 2008 with reference to racial discrimination offences registered in the period from 2001 to 2007.⁷² According to this report, until 2007 only a few cases of racist violence were taken to Court, most of them related to assault or murder practiced by *skinhead* groups against persons with an African background.

That same report also highlights that first prison sentence for a racial discrimination crime was in October 2008. There is no record of more recent convictions on the basis of racial discrimination.

Examples of NGO Good Practice

In 2005, the Portuguese Association for Victim Support (APAV) created the Support Unit for Migrant Victims and Victims of Ethnic and Racial Support (UAVIDRE) specifically designed to support migrant people. Ever since, UAVIDRE has supported almost 2000 people, victims of discrimination and other types of crimes. This specialised Unit offers juridical and psychological support to migrants who have suffered crimes against them.

IX.i.iii Counter terrorism

Portugal does not have native terrorist groups and apparently it is not a target of groups from other countries⁷³. However, a separatist group from Spain called ETA, whose action is based on terrorism, have some activities in the Portuguese territory and can represent a risk of terrorist attacks.

In 2010 the Portuguese authorities discovered an ETA group established in the territory and was able to dismantle it before any attack was carried out. Three people were arrested and explosive substances were seized, according to a report made by Europol.⁷⁴

Apparently ETA is the only group with some action in Portugal and there is no register of groups targeting ethnic, racial or religious groups in the country.

⁷² International Amnesty, "Racism and Xenophobia in Portugal (2001-2007)", October 2008.

⁷³ United States Department of State, "Country Reports on Terrorism 2009", August 2010.

⁷⁴ "EU Terrorism Situation and Trend Report", 2011.

Terrorism in Portugal is not linked to any specific ethnic or religious group, thus there is no register of counter terrorism measures taken by authorities targeting a certain community.

Examples of NGO Good Practice

Since Portugal seems to be a country free of terrorism activity, it's not known any NGO struggling against this crime.

IX.ii The political and legal context

Portuguese criminal law punishes violent acts based on racism. Article 240^o of the Criminal Code (Racial, Religious and Sexual Discrimination) criminalises the creation of, or participation in, organisations that incite racist violent acts, making it punishable with jailtime of 1 to 8 years for anyone *“whom, establishes or constitutes an organisation or develops activities of organised propaganda that incite discrimination, hatred or violence against a person or a group of people due to race, colour, ethnic or national origin, religion, gender or sexual orientation, or encourages it; or participates in the organisation or in the activities related to the above paragraph or provides assistance, including financing”*⁷⁵.

⁷⁵“Artigo 240.º Discriminação racial, religiosa ou sexual: 1 - Quem:

a) Fundar ou constituir organização ou desenvolver actividades de propaganda organizada que incitem à discriminação, ao ódio ou à violência contra pessoa ou grupo de pessoas por causa da sua raça, cor, origem étnica ou nacional, religião, sexo ou orientação sexual, ou que a encorajem; ou

b) Participar na organização ou nas actividades referidas na alínea anterior ou lhes prestar assistência, incluindo o seu financiamento;

é punido com pena de prisão de um a oito anos.

2 - Quem, em reunião pública, por escrito destinado a divulgação ou através de qualquer meio de comunicação social ou sistema informático destinado à divulgação:

a) Provocar actos de violência contra pessoa ou grupo de pessoas por causa da sua raça, cor, origem étnica ou nacional, religião, sexo ou orientação sexual; ou

b) Difamar ou injuriar pessoa ou grupo de pessoas por causa da sua raça, cor, origem étnica ou nacional, religião, sexo ou orientação sexual, nomeadamente através da negação de crimes de guerra ou contra a paz e a humanidade; ou

c) Ameaçar pessoa ou grupo de pessoas por causa da sua raça, cor, origem étnica ou nacional, religião, sexo ou orientação sexual;

com a intenção de incitar à discriminação racial, religiosa ou sexual, ou de a encorajar, é punido com pena de prisão de seis meses a cinco anos”.

http://www.pgdlisboa.pt/pgdl/leis/lei_mostra_articulado.php?artigo_id=109A0239&nid=109&tabela=leis&pagina=1&ficha=1&nversao=#artigo

Additionally, that same article states that anyone who disseminates publicity that incites acts of violence or threats against a person or a group of people based on race, color, ethnic or national origin, religion, gender or sexual orientation, is punishable with confinement for a period of 6 months up to 5 years.

Besides the criminalisation of propaganda and other forms used to incite racism, the criminal law also establishes that racist or xenophobic motivation are aggravating circumstances of the crimes of assault and murder.

Both the crime stated by article 240^o and aggravated murder and assault are considered public offences, and as such their prosecution does not depend on a report from the victim. It is also important to note that legal persons can be held liable for the crime of racial discrimination (article 240^o), but not for the other offences based on racial discrimination motives.

According to the above mentioned aspects, it is possible to say that the EU Framework Decision on Racism and Xenophobia was transposed in Portugal.

Besides the crime stated by article 240^o of the Penal Code, according to law 18/2004 racial discrimination is also a regulatory offence. This law punishes with a fine any natural or legal person that refuses or impedes the access to basic goods and services (such as health, education, housing or public locations) to someone based on his racial, national or ethnic origin.

Racism and xenophobia are not often discussed in Portuguese political speeches and debate, but even so, there are some political measures that aim to fight against it. The main policy instrument created in a recent period in this matter is the Plan for Immigrants' Integration (Plano para a Integração de Imigrantes – PII), that establishes a large number of political measures to promote the social inclusion of immigrants and to fight racism and xenophobia.

Concerning the fight against racism and xenophobia, the first plan, for the period of 2007-2009, stated a total of 6 measures in this area, emphasising the promotion of training and information to the general public. The final report of this plan shows that only a half of these measures were accomplished.⁷⁶

The next plan for the period of 2010-2013 states only four measures to fight racism and discrimination, which are: a) Approve legislative changes to reinforce the intervention capacity of the Commission for Equality and Against Racial

⁷⁶http://www.acidi.gov.pt/_cfn/4d346c9b80687/live/Conhe%C3%A7a+o+Relat%C3%B3rio+Final+do+PII+%282007-2009%29

Discrimination; b) Awareness and training for combating racial discrimination; c) Combating racial discrimination in sport; and d) Breakdown of statistical data.⁷⁷

In fact, the absence of statistical data hinders the knowledge and awareness of discrimination in Portugal as well as the establishment of adequate policies, which is an issue that must be addressed.

⁷⁷ http://www.acidi.gov.pt/_cfn/4d346c9b80687/live/Consulte+a+vers%C3%A3o+da+Plano+2010-2013+em+Ingl%C3%AAs

X. Racism and related discrimination in access to goods and services

X.i Manifestations of racism and related discrimination with access to goods and services in the public and private sector

In Portugal there is also no official data concerning discrimination in relation to access to goods and services. However, some academic research does highlight the turmoil experienced by immigrant and ethnic people living in Portugal, pointing out some alarming facts on discrimination.

Through an analysis of public sector services such as the Welfare System, the Police, the Borders and Foreign Service (SEF) and the Employment and Vocational Training Institute (IEFP), it was possible to understand the perception of migrant and ethnic people as in what discrimination. The values differ throughout the services in question, but it is remarkably disturbing to find out that 51%⁷⁸ of the Roma people have felt, at one given moment, discriminated against or badly treated by the Police. According to the same study, the service with the highest rating in discrimination matters is the Employment and Vocational Training Institute (IEFP), with an average score of 12% of people feeling discriminated against by the services⁷⁹. These results follow the last ECRI report⁸⁰ on Portugal, in which it is noted that the Roma people were the group with the highest likelihood to be discriminated against in public services.

In 2010, the Commission for Equality and Against Racial Discrimination (CICDR), which is politically responsible for receiving complaints and carrying out regulatory action regarding offenses concerning racial discrimination, received a total of 89 complaints⁸¹ from people that felt that they had been discriminated against in terms of their nationality or ethnic origin. From those 89 charges, seven originated in goods and services contexts, such as shops, transportation and culture services.

Regarding financial services, there are not any official reports on racial discrimination. Nevertheless, it is possible to notice discriminating and stereotyping standards within the financial market, as banks often see potential immigrant clients as being less qualified, having a complicated and fragile

⁷⁸ 2008 - <http://www.numena.org.pt/ficheiros/Migrants%20Experiences%20of%20Racism.pdf>

⁷⁹ Ibid.

⁸⁰ ECRI (2007). Terceiro Relatório sobre Portugal, in <http://www.dgpi.mj.pt/sections/relacoes-internacionais/anexosorgint2/sections/relacoes-internacionais/anexosorgint2/3-relatorio-ecri/downloadFile/file/ECRI.3.RelatorioPortugal.pdf?nocache=1201105585.28>

⁸¹ 2010

http://www.acidi.gov.pt/_cfn/4d346bd641db7/live/Relat%C3%B3rio+de+Actividades+do+ACIDI+%282010%29

economic situation, and tend to hold the misleading belief that immigrants stay in Portugal for a short period of time, and therefore are not worthy of the bank's investment⁸². As a result, an investigation⁸³ conducted in 2008, concluded that Brazilians and Ukrainians are the groups that suffer the most difficulties with accessing credit.

Examples of NGO Good Practice

The Portuguese NGO *Moinho da Juventude*⁸⁴, has its head office in one of the most problematic neighbourhood in the Lisbon suburbs, in *Bairro do Alto da Cova da Moura*. There are about 6000 people⁸⁵ living in the neighbourhood and 60% of its population are from African countries. Due to its characteristics and the enormous social stigma related to the *Cova da Moura* neighbourhood and its residents, *Moinho da Juventude* has been fighting for several years towards social inclusion and against the continuous discrimination against these migrants.

As such, *Moinho de Juventude* offers the community several services such as kindergartens, a training centre and a library, a sports centre, parental advice and training, a social services office, and a music studio where young migrants can record music samples, just to name a few.

X.ii The political and legal context

In 2010, the Presidency of the Council of Ministers presented the second Plan for Immigrant Integration (PII)⁸⁶ setting a high number of measures regarding positive immigrant integration, specifically within public services, for example: measure 36 - training plan for intercultural skills for National Health System employees; measure 55 - awareness and training for fighting racial discrimination; measure 59 - Consolidate information/training for immigrants on their rights as consumers.

Regarding the legislative developments, there were not any advances towards an improvement of the existing law, though the measure 54⁸⁷ of the second PII (Legislative changes to reinforce the intervention capacity of the Commission for Equality and Against Racial Discrimination) wishes to do so. With the success of this implementation, all regulatory offenses regarding the practice of

⁸² 2009 - http://www.numena.org.pt/ficheiros/INVIP_Handbok_PT.pdf

⁸³ 2008 - <http://www.numena.org.pt/ficheiros/Migrants%20Experiences%20of%20Racism.pdf>

⁸⁴ Associação Cultural Moinho da Juventude, in <http://redeciencia.educ.fc.ul.pt/moinho/> accessed 28th September 2011

⁸⁵ <http://redeciencia.educ.fc.ul.pt/moinho/default.asp>

⁸⁶ <http://www.acidi.gov.pt/cfn/4d346c9b80687/live/Consulte+a+vers%C3%A3o+da+Plano+2010-2013+em+Ingl%C3%AAs>

⁸⁷ Ibid.

discrimination offences will be centralised and dealt with by CICDR, making case deadlines fairer and faster.

In conclusion, we find interesting the 54th measure of the Second PII, since it will prevent some embarrassments as those happening nowadays, like the investigations deadline overcoming by years. Also, and despite the complaints of racial discrimination set forward to CICDR, the Commission has to redirect the case towards the specific Public Inspection (e.g., discrimination happening in a hospital has to be reassessed by the Directorate-General for Health). When CICDR receives the investigation's result, very often it lacks relevant information to an accurate decision from CICDR.

XI. Racism and related discrimination in the media

XI.i Manifestations of racism and related discrimination in the media, including the internet

Although Portugal is traditionally a sending country, in the past three decades the country faced an immigration phenomenon⁸⁸ and the media gave this much coverage. In the end of the nineties, the Portuguese media treated matters of immigration with resentment emphasising racial and ethnic stereotypes⁸⁹.

In 2008, an exploratory investigation⁹⁰ during the years of 2005 and 2006, concluded that 21.6% of media reports made reference to undocumented immigrants, facing a slight decrease when compared to previous years (i.e., 2003 and 2004). Even though 'crime' continues to be a common subject in the news on the matter of immigration, there is a notable difference regarding its orientation. In the early 2000s immigrants and ethnic minorities were, on average, mainly reported as criminal offenders. After an investigation carried out in 2006, it was found that there was an increase of media reports referring to immigrants as victims of crime⁹¹.

On the 10th of June of 2005, a major robbery was carried out on one of the most frequented Portuguese beaches, *Carcavelos*. The media reported that this robbery was conducted by 500 young⁹² people, mainly of immigrant origin, aged between 17 and 20 years old, and gang members. No media professionals got any photos or videos of the robbery, and the only images collected were young people running during the police intervention.

For the first time in Portugal, the word '*Arrastão*'⁹³ was used to classify this alleged crime. It turned out that the police confirmed that, out of the 500 young people, only around 40 of them were causing problems, and the images showing young people running resulted from the panic during the confusion. After a careful and detailed analysis, the Portuguese High Commission for the Social Communication⁹⁴ concluded that the media reported the news with a dangerous lack of accuracy and facts.

⁸⁸ Santos, Oliveira, Rosério, Kumar, & Brigadeiro (SD). *Research survey on migrants' experiences of racism and discrimination in Portugal*. Porto Salvo: Sociedade Industrial Gráfica, Lda.

⁸⁹ Ferin, I, Santos, C. A., Filho, W. S., & Fortes, I. (2008). *Media, Imigração e Minorias Étnicas 2005-2006*. Lisboa: Alto Comissariado para a Imigração e Diálogo Intercultural (ACIDI).

⁹⁰ Ibid.

⁹¹ Cabecinhas, R. (2008). Racismo e Xenofobia: a actualidade de uma velha questão. *Comunicação e Cidadania*, 6, pp. 1-20.

⁹² ACIME (2006). *O Pseudo-arrastão de Carcavelos – Documentos*. Lisboa: Textype, Artes Gráficas, Lda.

⁹³ Ibid.

⁹⁴ Ibid.

Even though Portuguese journalists have a code of ethic which follows the human rights approach⁹⁵, and the media is more aware of how to publish news⁹⁶ in order to avoid creating discrimination among immigrants, there are still concerns regarding subtle racism within the press⁹⁷. As such, it's very common for news headlines to point out the nationality of, for instance, the perpetrator of a crime, even though it is completely irrelevant.⁹⁸ Brazilian people have their nationality frequently referred to in media reports (viz., 22.9%), even though this reality is never put into perspective with the fact that Brazilians represent the largest immigrant community in Portugal.

Besides nationality, the way that the media treat undocumented immigrants confirms this subtle discrimination. Very often, it's possible to read and listen to expressions such as "illegal immigrants".⁹⁹

Examples of NGO Good Practice

As well as all the efforts by NGOs to promote good practices, it is fair to underline specifically the work developed by the High Commission for Immigration and Intercultural Dialogue (ACIDI) regarding the media. In 2008, ACIDI launched a radio show called "*Gente como nós*" ('People like us'), with the main goal of promoting the social integration of immigrants into Portuguese society. Another good practice by this Public Institute, concerning the integration of immigrant, is the TV show "*Nós*" ('We'), that airs every Monday, Friday and Sunday, since 2004. And finally, ACIDI recognizes the good work of developed by journalists, giving out the award "*Jornalismo pela Diversidade Cultural*" ('journalism for cultural diversity')¹⁰⁰.

Concerning the Internet, there has been an increase of racist websites in the past years¹⁰¹, with Roma and immigrants as the target groups. To face this reality, in 2005, the Portuguese government created a project named "*Internet Segura*"¹⁰². ('safe internet'), which is divided in two scopes: the "*Linha Alerta*" ("alert line")

⁹⁵ ECRI - http://hudoc.ecri.coe.int/XMLEcri/ENGLISH/Cycle_01/01_CbC_eng/01-cbc-portugal-eng.pdf

⁹⁶ Cabecinhas, R. (2008). Racismo e Xenofobia: a actualidade de uma velha questão. *Comunicación e Cidadanía*, 6, pp. 1-20.

⁹⁷ ECRI (2007). *Third Report on Portugal*. Strasbourg: Council of Europe.

⁹⁸ Cabecinhas, R. (2008). Racismo e Xenofobia: a actualidade de uma velha questão. *Comunicación e Cidadanía*, 6, pp. 1-20.

⁹⁹ Ferin, I, Santos, C. A., Filho, W. S., & Fortes, I. (2008). *Media, Imigração e Minorias Étnicas 2005-2006*. Lisboa: Alto Comissariado para a Imigração e Diálogo Intercultural (ACIDI).

¹⁰⁰ ACIDI (2011). <http://www.acidi.gov.pt/banco-de-informacao/radio/visualizar-noticia/4dda334c06099/jornalistas-do-dn-e-da-tsf-premiadas-->

¹⁰¹ ECRI, *Third Report on Portugal*. Strasbourg: (Council of Europe, 2007).

¹⁰² Linha Segura, <http://www.internetsegura.pt/pt-PT/Default.aspx>, accessed 12 August 2011.

where people can denounce websites with racist contents, and *"Linha Ajuda"* ("help line"), that provides information through the telephone and also online about cyber crimes and the use of internet.

One thing is sure, in Portugal there is an absence of official information, especially statistical data, on racism and discrimination within the media.

XI.ii The political and legal context

The High Commission for Immigration and Intercultural Dialogue (ACIDI) has presented the 2nd Plan for Immigrant Integration (PII), for the period of 2010-2013. With this political strategy, the Portuguese government gives some attention to the media in matters of discrimination.

With the 15th area from this 2nd PII ¹⁰³ ('promoting diversity and interculturalism'), ACIDI designed two measures specifically addressed to the media – one regarding regulation and another for interculturalism ¹⁰⁴.

As for the first one, Measure 75 – "encouraging for developing media self-regulation mechanisms, regarding ethic and professional deontology", ACIDI wants to improve accuracy within media work, in order to avoid xenophobic and racist interpretations in the public opinion.

Concerning the Measure 79 – "promoting cultural and religious diversity in the media", ACIDI seeks to encourage the media to develop information or programs specific to matters of cultural and religious diversity. Also, the public institute wants to increase the training of media professionals with regard to interculturalism, immigration and diversity. ¹⁰⁵

As for legal development, at the time of writing this report there was no news regarding any legislative updates. The law 32/2003 (art. 24) settles some limitation for media programs, mainly television: *"all elements of the program services have to respect, according to its presentation and its contents, the human person dignity (...), not having, in any case, (...) free violence or incite hatred, racism and xenophobia."*¹⁰⁶

Regarding publicity, the Decree-Law 330/90 states that *"it's forbidden (...) publicity that: has any discrimination regarding race, language, origin territory, religion or gender"*. ¹⁰⁷

¹⁰³ ACIDI (2010). *II Plano para a Integração dos Imigrantes (2010-2013)*, in <http://www.acidi.gov.pt/cfn/4d346c9b80687/live/Consulte+a+vers%C3%A3o+do+Plano+2010-2013+em+portugu%C3%AAs>

¹⁰⁴ Ibid.

¹⁰⁵ Ibid.

¹⁰⁶ http://www.pgdlisboa.pt/pgdl/leis/lei_mostra_articulado.php?nid=141&tabela=leis

¹⁰⁷ http://www.pgdlisboa.pt/pgdl/leis/lei_mostra_articulado.php?nid=390&tabela=leis

Facing the NGO responses to the political development, there isn't any public statement regarding ACIDI's goals. However, APAV can underline the fragility of the concept of self-regulation mechanisms. We agree with the urgent need to control any racist and xenophobic speech within the media, however the need for an external supervising entity cannot be ignored.

Also, according to the Portuguese juridical system, discrimination by media can be a crime or an administrative offense and, in the second case, the offender is obliged to pay a fine if the facts are proven. It should be stated that the media professionals proven guilty of discrimination, not only have to pay the fine, but should also have some penalties within the offender's career.

XII. Political and legal developments in anti racism and anti discrimination

The Portuguese political agenda has never truly had the topics of racism and discrimination in the spotlight. In any case, in 2007 the government approved a new 'Plan for the Integration of Immigrants'¹⁰⁸ in a joint work by all of the Ministries and with the contribution of several civil society organisations which reflect the views of Portuguese society. Among the most important measures featuring in this plan, we should refer to those directed at: lowering the school drop out rate for immigrant descendents; reinforcing professional training for immigrants; and new Portuguese learning programmes and tools aimed at facilitating immigrants' access to health services, housing, and education.

The Race Equality Directive¹⁰⁹ and the Framework Directive¹¹⁰ were implemented by a series of laws and decree-laws, namely the Law 99/2003, of 27 of August, the Law 18/2004, of 11 of May and the Law 35/2004, of 29 of July. However, the fact that the EU Equality Directives were not transposed into the Portuguese legal order by a single act makes it more complicated for people who are victims of discrimination to resort to legal protection. Additionally, some authors¹¹¹ consider that the law violates some aspects of the Directive, from which two shall be emphasized: (i) the interested associations in defending the victims of discrimination may only intervene in the jurisdictional proceedings (and most of the proceedings are of administrative nature) and (ii) the fact that the Equality Body foreseen in the law, the High Commission for Immigration and Intercultural Dialogue (ACIDI), as well as the specialised body under its supervision, the Commission for Equality and Against Racial Discrimination (CICDR), are under the direct authority of the Prime Minister and thus are not entirely independent bodies.

The budget¹¹² for ACIDI has increased considerably over the last years, but from 2009 to 2010 this budget has decreased. However, despite having a relatively generous budget the actions of ACIDI are affected by the complexity of the procedure for complaints which are based on discrimination. A complaint can be filed with the ACIDI, which then sends the file to the Inspectorate General that is competent on the matter, and it is this body that will investigate and draft the final report. This report is then sent back to the CICDR for issuing an opinion and it is

¹⁰⁸ Resolution of the Council of Ministers nº 63-A/2007, of 3 of May 2007.

¹⁰⁹ Council Directive 2000/43/EC, of 29 June 2000, implementing the principle of equal treatment between persons irrespective of racial or ethnic origin.

¹¹⁰ Council Directive 2000/78/EC, of 27 November 2000, establishing a general framework for equal treatment in employment and occupation. It prohibits discrimination on the grounds of religion or belief, disability, age or sexual orientation in the field of employment.

¹¹¹ M. Malheiros and A. Rosado, *Report on Measures to Combat Discrimination – Directives 2000/43/EC and 2000/78/EC*, European network of legal experts in the non-discrimination field (2008).

¹¹² ACIDI – Alto Comissariado para a Imigração e Diálogo Intercultural, *Relatório de Actividades 2010* (2011).

only then that ACIDI decides whether or not to impose a fine. The fact that the investigations are conducted by other bodies than the ACIDI or CICDR, as well as the fact that the Inspectorate Generals take too long to conclude their investigations, eventually undermines the effectiveness of the specialised bodies. In accordance with the official information,¹¹³ during 2010, 89 complaints of racism and discrimination were brought before CICDR of which only one led to the issuing of final decision¹¹⁴.

Besides intervention concerning the investigation and decision on discrimination complaints, ACIDI has also implemented a series of positive action measures specially directed to the promotion of interculturalism¹¹⁵. As examples we can refer the programme “*Promoção da Interculturalidade a Nível Municipal*”, with the goal to promote interculturalism at a local level focusing mainly on the fields of education and access to the labour market, and the radio show “*Gente como Nós*” (People like us) and the TV programme “*Nós*” (Us).

Another example is the programme “*Projecto Promoção do Empreendedorismo Imigrante*”, to help and promote the entrepreneurship among immigrants, has also been recently launched by ACIDI.

ACIDI’s policy of carrying out its mission in cooperation with civil society organisations continued during 2010. Almost half of the budget of ACIDI for 2010¹¹⁶ was allocated for financing several organisations working with immigrants and fighting racism.

There are currently a series of NGOs intervening in the fight against racism and discrimination and more than 100 associations representing immigrants and their descendents registered with ACIDI as of October 2010.¹¹⁷ However, the activities of these associations are usually more directed towards the integration of immigrants and their communities, and thus their role as watchdogs is relatively small.

ACIDI signed a protocol with the Portuguese Association for Victim Support (APAV) which led to the creation of ‘Support Unit of Migrant Victims and Victims of Ethnic and Racial Discrimination’ (UAVIDRE). UAVIDRE has been providing legal, psychological, emotional, and social support to immigrants who have been victims of crime and to all victims of racial or ethnic discrimination since May 2005, free of charge, and in a confidential manner.

¹¹³ See above, note 5.

¹¹⁴ http://www.acidi.gov.pt/_cfn/4d346bd641db7/live/Relat%C3%B3rio+de+Actividades+do+ACIDI+%282010%29

¹¹⁵ See above, note 5.

¹¹⁶ See above, note 5.

¹¹⁷ Associações de Imigrante em Portugal, available at http://www.aimigrantes.org/content/pdf/Associa%C3%A7%C3%B5es%20Reconhecidas%20pelo%20ACIDI%2026_Outubro_2010.pdf .

Examples of NGO Good Practice

The very active role of *SOS Racismo*, one of the oldest Portuguese NGOs with the mission of fighting racism and discrimination, must also be mentioned – during its 20 years of existence *SOS Racismo* has contributed to the criminalisation of racial hate crimes and to the creation of the law against racial discrimination.¹¹⁸

¹¹⁸“*Activistas do SOS Racismo ‘não deixam ninguém dormir’*”, in Público (10/12/2010) available at http://www.publico.pt/Sociedade/activistas-do-sos-racismo-nao-deixam-ninguem-dormir_1470359.

XIII. Migration and integration

Over recent decades, Portugal has made an effort to develop good integration policies in various areas, such as migration. As result, in 2002¹¹⁹ the High Commission for Immigration and Intercultural Dialogue (ACIDI) was created, and since then some resources were developed to better support immigrants living in Portugal.

These efforts to develop better policies and facilitate the integration of immigrants in Portugal is reflected in the MIPEX reports: according to the latest one (i.e. 2010), Portugal comes in 2nd place in the ranking¹²⁰ of the most integrative countries. However, and despite the good results showed in the report, the areas chosen for measuring the immigrants' integration are important but sub-standardised. Areas such as education, political participation, or family reunion are indeed in need of a good evaluation, but there are many others like health or access to goods and services that should also be taken into account in the MIPEX report.

Also, MIPEX lacks information regarding undocumented immigrants, thus giving a false idea of the integration of immigrants since this population represents a big slice of the number of migrants in Portugal.

According to the 2011 Aggregate Report on Migrant Integration¹²¹, Portugal has good projects on integration, such as Portuguese language classes, promoting activities for young people, and creating services which help by providing information or solving general problems, are mentioned as examples of the many good practices implemented.

Regarding asylum policies, the last legal development was made in 2008 with the transposing into the internal legal order the Council Directive (2004/83/CE)¹²² into law 27/2008¹²³. This law establishes the conditions and procedures for granting asylum and subsidiary protection and the statuses of asylum applicant and refugees. Since then, there have been no developments with regard to asylum policies.

Regarding legal and legislative developments towards migrant people over the past year, no new advances have occurred. However, where integration and inclusion are concerned, the new National Plan for Immigrant Integration¹²⁴ was officially launched in 2010. In this Plan 90 measures for migrant integration were designed, ranging from education, to citizenship.

The Portuguese NGO, *SOS Racismo*¹²⁵, immediately reacted to the second National Plan stating that all the 15 measures regarding education, despite their relevance,

¹¹⁹ http://hudoc.ecri.coe.int/XMLEcri/ENGLISH/Cycle_03/03_CbC_eng/PRT-CbC-III-2007-4-ENG.pdf

¹²⁰ <http://www.mipex.eu/portugal>

¹²¹ http://ec.europa.eu/public_opinion/archives/quali/ql_5969_migrant_en.pdf

¹²² <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:304:0012:0023:PT:PDF>

¹²³ <http://dre.pt/pdf1s/2008/06/12400/0400304018.pdf>

¹²⁴ http://www.acidi.gov.pt/_cfn/4d346c9b80687/live/Consulte+a+vers%C3%A3o+do+Plano+2010-2013+em+portugu%C3%AAs

¹²⁵ <http://www.sosracismo.blogspot.com/>

were unclear as to their efficiency,, since training for teachers was needed for intercultural matters. To date, training has not been provided to those professionals.

On the subject of the 11 Common Basic Principles for integration, the Portuguese national plans for integration (i.e., National Action Plan for Inclusion 2008-2010¹²⁶ and National Plan for Immigrant Integration 2010-2013), seem to be in accordance with the European Commission Communication¹²⁷, where the majority of the Principles are established. However, some of the Principles aren't yet established or have reduced implementation, likewise '*access for immigrants to institutions, as well as to public and private goods and services (...)*'¹²⁸. Despite the efforts of ACIDI to secure clear access for migrants to public and private services, there is still some reluctance from professionals from several attendance services (like healthcare) and consequently migrants may suffer some kind of discrimination (see chapter X).

Following the same recommendations, the 2nd Principle '*Integration implies respect for the basic values of the European Union*'¹²⁹ can be considered to have been applied in Portugal, but with some reluctance. The Portuguese State provides immigrants a telephonic translation service with more than 60 languages available, with the purpose of facilitating communications. Nevertheless, it is just a free translation service and not a civic orientation programme for the newly arrived third-country nationals¹³⁰, as is recommended by the European Commission.

The latest National Action Plan for Inclusion 2008-2010¹³¹ outlines priority number 3 'to overcome discrimination through reinforcing the integration of specific groups, such as immigrants and ethnic minorities'. In practice, the Plan ended last year but the official report is not available yet. It was focused on the already existing social programs and programs for social protection to combat poverty and social exclusion. According to the 2009 report,¹³² ethnic minorities like the Roma are already protected by the National Plan for Immigrant Integration, with specific measures.

Examples of NGO Good Practice

The Portuguese Council for Refugees¹³³ (CPR) has an integrative policy. They not only provide full security support, they also promote inclusive measures aiming at a full integration of these migrants, such as Portuguese language teaching, support in house and job searching, providing help to gather documents for legalisation purposes, etc.

¹²⁶ http://www.acidi.gov.pt/_cfn/4d346c9b80687/live/Consulte+a+vers%C3%A3o+do+Plano+2010-2013+em+portugu%C3%AAs

¹²⁷ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:304:0012:0023:PT:PDF>

¹²⁸ <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2004:304:0012:0023:PT:PDF>

¹²⁹ Ibid.

¹³⁰ Ibid.

¹³¹ http://www.acidi.gov.pt/_cfn/4d346c9b80687/live/Consulte+a+vers%C3%A3o+do+Plano+2010-2013+em+portugu%C3%AAs

¹³² <http://www.pnai.pt/docs/RELATORIO%20DE%20IMPLEMENTACAO%20E%20RESULTADOS%20-%20%20ANO%202009.pdf>

¹³³ CPR, consulted in <http://www.cpr.pt/>, accessed in 28th September 2011.

XIV. National recommendations

Employment:

- Promote public awareness through campaigns to alert immigrants and ethnic minorities about labour exploitation, especially undocumented migrants.
- Promote campaigns to fight discrimination with regard to the unequal work conditions to which immigrants are subjected.

Housing:

- Provide data about immigrants housing conditions in order to better apply policy measures that are already established.

Education:

- Include within the Government education statistics the variables of nationality and ethnicity, since it is not possible to understand the full scope of education drop-outs and withdrawals among the immigrant community;
- Train educational professionals (i.e., teachers and assistants') in the importance of intercultural dialogue and the specific needs of migrant students;
- Provide students with a more open range of languages to learn, such as Kriol and other ethnic dialects;

Health:

- Provide more training to health professionals regarding intercultural dialogue;
- Disseminate more information through national campaigns about immigrant rights in the healthcare system;
- Give more legislative protection to undocumented immigrants in order to help them to access the National Health System in a fair and equal way;

Criminal justice:

- Create an independent supervisory body to monitor the action of the police and the law enforcement authorities, in order to identify situations of discrimination and ethnic profiling and fight it;
- Give proper training on discrimination to police officers and law enforcement agents to avoid ethnic profiling and to make them able to identify crimes motivated by racism and xenophobia (hate crimes);
- Provide more awareness to racial discrimination on the Portuguese political speech;
- Provide official data on racist violence and crime;

Access to goods and services:

- The Portuguese state should provide more social protection for immigrants, especially to immigrants who are in an irregular situation, like legal support for victims of crime;
- Launch a national campaign on information about migrants rights;

Media

- The Portuguese Media should hire more immigrants in order to give the right sense of equality of opportunities;

- The Portuguese government should regulate the journalism sector regarding the prevention of possible direct and indirect discrimination

General

- Anti-racism and anti discrimination:
 - Each year, public institutes should publicise annual reports in order to publicly announce and highlight matters related to immigrants and Roma people;
 - As the regulatory offenses regarding discrimination are monitored according to the subject matter in Portugal, it would be extremely important to concentrate on all matters regarding racial and ethnic discrimination – regardless the location of where they occur – to the High Commission for Immigration and Intercultural Dialogue (ACIDI), making the process faster and less bureaucratic;
 - NGOs working directly with immigrants and fighting discrimination should have more financial support, since these organisations daily support directly the victims in their needs;
 - The Portuguese law should increase the protection of the most vulnerable groups, e.g., undocumented immigrants, assigning a victim status to those who press charges of discrimination and consequently allowing legal and medical support in the same accordance to nationals;
- Migration and integration:
 - Settling the 11 Common Basic Principles on Integration and implementing the measures proposed but yet not applied;
 - Enhance the protection of undocumented immigrants, especially in social areas, and access to health services and justice;

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