



**International Convention on
the Elimination of All Forms
of Racial Discrimination**

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Chairperson: Mr. Avtonomov

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The meeting was called to order at 10.05 a.m.

Consideration of reports, comments and information submitted by States parties under article 9 of the Convention *(continued)*

Twelfth to fourteenth periodic reports of Portugal (continued) (CERD/C/PRT/12-14; CERD/C/PRT/Q/12-14; HRI/CORE/PRT/2011)

1. *At the invitation of the Chairperson, the delegation of Portugal took places at the Committee table.*
2. **Ms. Sotto Maior** (Portugal), speaking as representative of the Portuguese Ombudsman's Office, said her Office was an independent State body with a broad mandate covering the protection and promotion of the fundamental rights of all citizens, without distinction of any kind. It had been accredited with A status by the International Coordinating Committee of National Institutions for the Promotion and Protection of Human Rights. In fulfilment of its mandate, the Office had intervened on numerous occasions to protect and promote the rights of immigrants and foreigners and to avoid situations of discrimination. The number of complaints of racial or ethnic discrimination had remained low. In most cases where the existence of discrimination had been confirmed, the mediation of the Ombudsman had been sufficient to restore legality and respect for citizens' rights. The issue of racial discrimination was accorded special attention during inspections of prisons, police stations and detention centres for foreigners. The Ombudsman had also recommended to parliament a code of good administrative behaviour in which discrimination was specifically addressed.
3. The Ombudsman had taken note of the concerns expressed by various international human rights bodies about the situation of the Roma, and in particular the recent decision of the European Committee of Social Rights regarding the violation by Portugal of the European Social Charter. In recent years, however, relatively few complaints had been received, possibly because of a lack of awareness among Roma of their fundamental rights and the existence of the Ombudsman's Office. In line with his more proactive approach to vulnerable groups, the Ombudsman had launched proceedings on his own initiative to investigate concerns reported in the media or brought to his attention concerning possible violations of Roma rights. Those investigations had revealed some cases of discriminatory conduct, in most of which he had been able to resolve the concerns of the affected Roma communities. He encouraged the Government to continue its work on the national Roma integration strategy.
4. Awareness-raising and human rights education were fundamental aspects of combating racial discrimination since they helped foster a culture of diversity, equality and respect for human rights and enabled citizens to better defend their rights. The Ombudsman had therefore expressed his concerns to the Minister of Education about plans to remove the subject of civic training from the school curriculum.
5. As part of its mandate, the Office had organized meetings with migrants' associations and NGOs involved in defending migrants' rights with a view to gaining a greater understanding of the issues faced by migrants and raising awareness among immigrant communities of the existence and role of the Ombudsman.
6. The Office had also engaged in informal consultations with the High Commission for Immigration and Intercultural Dialogue (ACIDI) with a view to signing a cooperation protocol on case referrals, assistance in translation and awareness-raising on the role of the Ombudsman. The Office had also concluded a protocol with the national association of municipalities to facilitate the filing of complaints online. In addition, a protocol had been concluded with the Ministry of Education with a view to promoting the study of human rights and the role of the Ombudsman.

7. **Ms. Farmhouse** (Portugal) said her Government understood the concerns expressed by the Committee about the lack of disaggregated data in the State party report, but the Constitution did not allow the collection of racially or ethnically based statistics. The constitutional and legal framework introduced following the 1974 revolution had put an end to the system of categorizing Portuguese citizens by race that had been a feature of the colonial period. Consequently, the adoption of public policies on the basis of race or ethnicity would now shock Portuguese society and be viewed as racist. The fight against racism must be waged in a way that reflected the specific characteristics and collective conscience of each society. The Government considered that the phenomenon of racism was global and thus required a universal approach. Accordingly, racism should be tackled through the adoption of policies focusing on promoting and protecting the human rights of the most vulnerable social groups, regardless of their ethnicity, nationality, origin, beliefs or cultural background. Intercultural education was another key component in changing attitudes and combating racism.
8. The Mirandese language was spoken by some 5,000 native speakers in a small area of north-eastern Portugal. It had been granted the status of an official language for local matters under Act No. 7/99 of 29 January 1999.
9. A full description of the political and administrative situation of the autonomous regions of Azores and Madeira was contained in the core document (HRI/CORE/PRT/2011, paras. 73–75). National anti-racism policies were implemented in those regions, and migrants' associations there received funding from ACIDI.
10. **Mr. Marrecas Ferreira** (Portugal) said that under article 8 of the Constitution international law prevailed over domestic law. Article 8 (2) provided for a situation where an internationally binding convention which had lost its *raison d'être* was no longer applied by its signatories. Article 8 (3) dealt with the application of treaties which provided for secondary legislation that was binding on Portugal, such as European Union (EU) laws. Article 8 (4) added the requirement that EU law should be in accordance with human rights norms.
11. Article 16 (1) of the Constitution established that the fundamental rights enshrined in the Constitution could be extended to include other rights contained in international human rights instruments. The reference to the Universal Declaration of Human Rights in article 16 (2) dated from the 1976 Constitution; its application was consistent with more recent universal instruments.
12. When considering offences committed under article 71 of the Criminal Code, judges took account of the perpetrator's intent and awareness of the racial nature of the act as general aggravating circumstances.
13. In administrative proceedings, there was a reversal of the burden of proof in favour of the alleged victims of racial discrimination. In civil and criminal proceedings, the burden of proof was on the plaintiff. The compilation of crime statistics was the responsibility of the Ministry of Justice. With respect to labour law, he had no information on cases of discriminatory dismissal.
14. Migrants' associations could represent victims of racial discrimination in administrative and civil proceedings. In criminal cases, however, only the prosecutor's office could bring proceedings. A possible reason for the low number of discrimination complaints was a lack of confidence in the judicial system, which was considered to be slow and cumbersome. Article 240 of the Criminal Code had been invoked in three cases involving racist offences committed by far-right organizations associated with football clubs.

15. There were no special legislative provisions prohibiting ethnic political parties, which were currently only active at regional level. However, the Portuguese Constitution prohibited discrimination on ethnic grounds, and therefore any parties that set ethnic criteria for membership violated the provisions of the Constitution. The Supreme Court was likely to rule that such parties were illegal.

16. **Ms. Bardou** (Portugal), speaking on the subject of the administration of justice and responding to a question on the overrepresentation of foreigners in the prison population, said that her Government had been taking measures to deal with the problem and improve prison conditions. The prison population only marginally exceeded the capacity of the country's prisons (by approximately 2.6 per cent). In spite of budgetary restrictions, the Government had plans to extend the capacity of many prisons, and in certain facilities work was already under way.

17. Towards the end of 2011, there had been a total of 12,511 prisoners in Portuguese prisons, 20 per cent of whom had been foreigners. Of the total number of prisoners, around 20 per cent (both Portuguese and foreigners) were in provisional detention, which included both pretrial detention and detention pending the result of an appeal. Foreigners accounted for 33 per cent of all provisional prisoners.

18. A 2010 study by the Portuguese Immigration Observatory on the problem of overcrowding from the standpoint of sentencing had concluded that although discrimination did significantly contribute to the overrepresentation of foreigners in prisons, that discrimination alone did not explain the phenomenon. Other possible explanations included the fact that foreign detainees were not necessarily immigrants, and many had been arrested in transit, often on drug trafficking charges. Foreigners in provisional detention were also considered more likely to try to escape. The Criminal Code permitted the provisional detention of foreign suspects who had entered or remained in Portugal illegally, irrespective of the crime committed.

19. No complaints of racial discrimination by law enforcement agents had been filed with the Directorate-General for Prison Services since 2007 and only one such case had been filed with the Judicial Police; the allegation had been found to be groundless. The Inspectorate-General for Justice Services had no record of complaints relating to members of the Judicial Police, but had received three complaints against prison guards in 2010. Although it was possible that the low number of cases involving discriminatory conduct by law enforcement officials was the result of other factors, such as lack of information regarding the complaints procedure, efforts continued in that field. The Judicial Police welcomed the recommendation of the Commission for Equality and against Racial Discrimination to avoid revealing, in official or other communications concerning operations, information on matters such as the nationality, ethnicity or religious views of suspects.

20. With regard to prison services, a new regulation on the detention establishments administered by the Judicial Police had been approved, stressing the principle of non-discrimination and reaffirming a number of important rights. Brochures providing that information were available in all detention facilities in a number of languages. The new Code on the Enforcement of Sanctions and Measures involving Deprivation of Liberty stressed the principle of non-discrimination and reaffirmed certain rights, such as the right of persons arrested to be informed of their rights and duties, be heard and file complaints, and their right to legal counsel. The General Regulation on Prisons of 2011 recognized freedom of religion and allowed the provision of meals in accordance with a detainee's religious or ideological beliefs.

21. Measures had also been taken to educate and train police officers, including training on professional conduct, ethics and human rights, and steps were being taken to introduce a

code of ethics for Judicial Police personnel. The initial six-month training courses for prison staff included topics such as human rights standards and principles. The principle of non-discrimination was also taught, including in the context of the Code on the Enforcement of Sanctions and the General Regulation on Prisons. Education and training measures also extended to judges and public prosecutors, and included seminars on human rights issues organized by the Centre for Judicial Studies; they were open to Portuguese and foreign judges, prosecutors and other officials.

22. Members of the Committee had mentioned the small number of court decisions relating to racial discrimination. While the courts and the decisions they made were independent, the Government was taking steps to train and educate judges. That was also the case in the Ministry of Internal Affairs. In 2008, the Inspectorate-General for Internal Affairs had received three complaints relating to racial discrimination, none in 2009 and six in both 2010 and 2011. The Portuguese security forces and services received initial and in-service training which covered human rights.

23. With regard to the integration of ethnic minorities into the security forces, all citizens had equal access to employment and were equal before the law. Candidates wishing to apply to join a police force or criminal investigation units must comply with the criteria laid down by law.

24. Lastly, the extreme-right activities were being monitored by the Judicial Police, which collected and processed strategic and operational data, and through national and international cooperation.

25. **Mr. Pinto da Silva** (Portugal) said that the National Human Rights Commission had been established in 2010 to deal with overdue reports to the treaty bodies, to improve coordination between ministries concerning measures to implement the various international instruments, and to provide a forum involving civil society in the implementation of human rights policies. It was an inter-ministerial body, representing 12 ministries and other public entities active in fields such as racial discrimination, health, labour, housing and equality. Its work was coordinated by the Ministry of Foreign Affairs, and included harmonizing Portugal's position in relation to various international bodies, monitoring implementation of the conventions ratified by Portugal, preparing reports to treaty bodies and promoting human rights at national level. A number of its meetings to date had involved the participation of civil society and NGOs. Discussions had included the reform of the European Court of Human Rights, the draft of the midterm universal periodic review to be presented to the Human Rights Council and, at working group level, Portugal's fourth periodic report to the Committee on the Rights of the Child. The Government had decided to adopt that consultative approach within the framework of the Commission for all reports to treaty bodies, a decision which constituted one of the main improvements in that field.

26. The Commission had also approved an action plan for 2011–2012 and the initial report on its activities, including a set of good practices, which had been widely circulated nationally and internationally. The Commission's efforts to deal with overdue reports to treaty bodies had enabled the Government, over a period of less than two years, to submit seven overdue reports; three new reports were currently being prepared.

27. The Commission had also been involved in preparing and coordinating the visit of the Working Group of Experts on People of African Descent, which had taken place in May 2011.

28. Drawing the Committee's attention to paragraphs 72 et seq. of the periodic report, he stressed that the Ombudsman was Portugal's national human rights institution; the inter-ministerial Commission was not linked in any way to the Ombudsman's Office.

29. **Ms. Farmhouse** (Portugal) said that a number of measures had been taken in the area of integration and the involvement of civil society. For example, a programme to promote the learning of Portuguese as a second language had been introduced in schools and currently covered 1,787 students in 352 institutions.

30. The Government had also established a number of national immigrant support centres, or “one-stop-shops”, as part of the work of ACIDI to handle the arrival of increasing numbers of immigrants. The centres brought together a number of immigration-related services and were enhanced by a network of cultural mediators representing different immigrant communities. They addressed a variety of issues, including health, employment, housing and social security. In 2005, the project had won a best practice award and had been adopted as the model for the European “One-stop-shop: A new answer to immigrant integration” project, coordinated by the ACIDI. That innovative approach and the use of intercultural mediators were vital to promoting integration. Local immigrant support centres also provided assistance and local information, as well as a link to the national support centres. They had access to European funds to promote intercultural dialogue and foster integration.

31. The “Portuguese for All” programme, designed to promote the learning of Portuguese among adults, was free of charge to participants and co-funded by the European Social Fund. There were measures in place to promote citizenship rights, in accordance with the Nationality Law of 2006 and the Immigration Law of 2007. Students who completed the language courses could obtain certificates for the purposes of applying for nationality, permanent residence permits or long-term resident status, were awarded level A2 under the Common European Framework of Reference, and were exempt from language-testing requirements for immigrants. In addition to those courses, there were also technical language courses available to those with some knowledge of Portuguese and designed to improve their access to the labour market and provide greater equality of opportunities. Those courses, of around 25 hours’ duration, covered fields such as the retail and hotel sectors, beauty salons, construction and civil engineering.

32. Other measures taken by the Government included the “SOS Imigrante” telephone service, created in 2003 to provide general information on migrant issues and advice in emergency situations. Telephone translation services were also available to migrants who did not speak Portuguese. They were aimed at tackling communication barriers and possible discrimination in places such as prisons, hospitals and schools. The telephone service was available in around 60 languages and was free of charge.

33. The weekly programme “Nós” (Us), which addressed issues relating to immigrant communities, rights and duties, with the involvement of local communities and civil society, was broadcast on RTP every Sunday, and then repeated daily: in shorter form on RTP1 and in longer form on RTP Africa; the programme was also broadcast on RTP International Europe.

34. The “Choices” programme, targeting young people in Portugal and focusing on the social inclusion of children, was implemented nationwide with a large number of small-scale projects and involving a very large number of partners from national and regional authorities and civil society. It focused on five main areas: school attendance and non-formal education, vocational training and employability, citizenship and community participation, digital inclusion, and entrepreneurship and empowerment of youth. It covered over 70,000 children and, in 2010/11, its academic success rate had been 82 per cent. During the same period, over 4,000 children had been reintegrated into the school system.

35. With regard to persons of African descent, her Government was involved in celebrations to mark the Year for People of African Descent, and a range of activities and projects had been undertaken to that end. They included a meeting of the European

Network of African Descent in Almada, an exhibition at the Belém Tower on Africans in Portugal, and the creation of a monument to Euro-African youth.

36. In order to address the issue of the Roma community in Portugal, which faced the greatest level of discrimination, the Government had implemented projects such as the municipal mediators and “Choices” projects. It was also in the process of approving the national strategy for the integration of Roma communities, based on the 10 common principles established by the EU. The Government’s strategy targeted four main areas (education, housing, health and employment), and seven cross-cutting areas (knowledge, justice and security, discrimination, social security, gender, citizenship and mediation). As a means of drawing up better policies, a global study, designed to provide an overview of the Roma community in Portugal, was planned. There were also plans to set up a consultative group, involving the Roma community and civil society organizations, on the implementation of the strategy and matters relating to the Roma in Portugal.

37. The Government’s strategy included measures to prevent Roma children dropping out of school, promote the integration of Roma communities in the field of housing, steps to raise local authorities’ awareness of the specific cultural nature of Roma communities, efforts to promote employment and entrepreneurship, and measures to improve the health of Roma communities, with a particular focus on prevention. Other cross-cutting measures included the appointment of female mediators and women’s associations, efforts to promote citizenship, funding for civil society organizations and the provision of training on Roma communities.

38. **Mr. Malta** (Portugal), referring to a question raised about an incident during the recent football match between FC Porto and Manchester City, said he understood that Manchester City had submitted a formal complaint to the Union of European Football Associations (UEFA). Porto had stated that songs heard in the stadium had been in support of their players. The complaint was being investigated.

39. He confirmed the existence of a rumour that a number of Chinese had kidnapped children for the purposes of organ trafficking. The rumour had been denied by the Public Security Police.

40. All persons in Portugal had rights and duties, including immigrants and members of ethnic minorities, and were therefore eligible for housing programmes on an equal basis. Portugal had started a programme in the 1990s to dismantle slums and rehouse families in adequate dwellings. Rehousing measures remained in place for people who still needed support, and were implemented by municipalities, NGOs and religious organizations. In order to finance access to housing, in 2004 his Government had introduced the PROHABITA programme in order to tackle the serious housing needs of families. Between 2008 and the first semester of 2009, some 2,379 dwellings had been built or rented and occupied by more than 6,000 persons. Another Government programme facilitated access to rental accommodation for people under the age of 30; in 2008 it had benefited more than 12,000 persons.

41. Access to affordable housing for immigrants and minority groups was one of the considerations incorporated in the National Plan for the Integration of Immigrants, with no discrimination based on race, gender or nationality. Approximately 5 per cent of families who had had access to public housing were immigrants, and 5 per cent of young people who received grants for rental accommodation were immigrants. Community activities had been developed in neighbourhoods with high percentages of immigrants and minority groups, such as Roma and persons of African descent.

42. **Ms. Brito Maneira** (Portugal) said that her Government had considered the recommendation by the Human Rights Council to ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families but had

decided to reject it. Portugal's obligations vis-à-vis the EU, to which it had delegated some of its sovereign competence in internal affairs, meant that it was not in a position to take that decision. However, the Government considered that all migrants were protected by the existing international human rights framework, regardless of their migration status.

43. According to the latest estimates, there were 10,085 migrants with irregular status in Portugal, 6,625 of whom were male and 3,460 female. Research was being carried out by the Immigration Observatory into the factors underlying the phenomenon of two-speed integration. The main finding so far was that migrants from central and eastern European countries had higher qualifications than other migrants. As recommended by the Committee in its concluding observations of 2004, Portugal had ratified the amendments to article 8, (6) of the Convention by resolution No. 4/2001, which had been ratified by Presidential Decree No. 5/2001.

44. **Ms. Andresen Guimarães** (Portugal), reaffirming her Government's commitment to the realization of human rights, said that the treaty body system was a critical component of the international framework for the promotion and protection of human rights, which Portugal would continue to support and strengthen. She drew attention to the good work done by ACIDI and said that Portugal would be presenting a voluntary midterm review of the implementation of the recommendations made to Portugal by the Human Rights Council within the framework of the UPR.

45. **Ms. Farmhouse** (Portugal) said that her Government was determined not to let the current financial crisis jeopardize its work in the area of integration of migrants. While it had to cut all public budgets, including those assigned to the integration of migrants, its commitment in that area remained undiminished. Immigration was not seen as a problem in Portugal, as had been demonstrated by the recent Eurobarometer on Migrant Integration.

46. **The Chairperson** thanked the members of the delegation for their detailed replies to the Committee's questions. Referring to a number of points made by the delegation, he said that he had been interested to hear about the implications of the new wording of article 240 of the Criminal Code, bearing in mind the need to eliminate de facto discrimination and discrimination in policies and legislation. He drew attention to the Committee's general recommendation No. 27, which could be useful in encouraging minority groups, including Roma and *Ciganos*, to apply for posts in the security forces. He affirmed the usefulness of the special measures described in general recommendation No. 32.

47. **Ms. Crickley** (Country Rapporteur) asked whether the training and education on intercultural issues described by the delegation was mandatory in all situations. With regard to the information given by the delegation on the right to provide assistance in legal proceedings within the framework of EU directives, she asked whether the delegation had been referring to the provisions that facilitated that process, or about provisions that went a good deal further than that, which Portugal was also supposed to implement. She asked for clarification whether the term "foreigners" as used by the State party referred to persons who were not Portuguese. In the EU context, there was a tendency to distinguish between EU nationals, who moved freely throughout the EU, on the one hand, and third-country migrants, on the other. Portugal's use of the term "foreigners", if used to mean non-Portuguese, would have the advantage of enabling the State party to quantify how many people from different EU countries were present in Portugal.

48. She had been surprised to hear the delegation refer to integration in the context of the financial crisis, and queried the use of the Eurobarometer on Migrant Integration as a tool in the consideration of how directives on racism and equality were being implemented. Given the apparent divergence from the generally accepted European interpretation of the term "integration", on the one hand, and "racial discrimination", on the other, she wished to

know how the State party identified racial discrimination against immigrants who had become citizens.

49. She would be interested to hear how the social inclusion policies described by the delegation incorporated direct mechanisms to address racism and ensure equality for all minority groups. She wondered whether the State party had considered aspects such as “life cycle racism”, one example of which was the difference between ordinary bullying and racist bullying in schools. Also, how was the State party addressing the intersection between racism and other forms of inequality vis-à-vis women? She asked how the State party was going to ensure that its strategies on Roma, to be included in the national action plan, would effectively address the issues of direct or indirect discrimination against that group, bearing in mind that the Roma were the most discriminated against group in Portugal.

50. **Mr. de Gouttes** said he would appreciate clarification of the distinct roles of the independent Ombudsman and ACIDI, and how distribution of work between the two bodies was organized. The main functions of ACIDI appeared to be those usually assigned to national human rights institutions established in accordance with the Paris Principles.

51. While the Committee was in favour of reversing the burden of proof of discrimination in civil matters, such as access to housing and employment, it was not possible to do that in criminal cases because of the presumption of innocence and because it fell to the prosecution to adduce evidence. In that regard, some countries made use of the practice of testing for racial discrimination, and he wished to know whether that practice was allowed in Portugal. He requested the delegation to clarify whether there was any real distinction between *Ciganos* and Roma, or whether the difference was purely one of terminology. The State party should include in its next report more detailed information on complaints, convictions and rulings in the area of racial discrimination, backed by statistics.

52. **Mr. Diaconu** said that while it was clear that Portugal recognized the primacy of international human rights law over national law, that recognition needed to be made explicit, for example by means of an interpretation issued by the Constitutional Court or Supreme Court. There was no contradiction between the universal approach to human rights advocated by the delegation and an approach that focused on the rights of vulnerable groups. Cultural and linguistic diversity in Europe was promoted under the EU Charter of Fundamental Rights, and applied to all European citizens, including Roma. It was likely that the number of Roma in Europe would increase, and that some of them would settle in Portugal. It was therefore necessary to acknowledge and support the cultural and linguistic diversity of the Roma community.

53. **Mr. Lindgren Alves** said that he would appreciate it if the delegation could recapitulate the information it had given earlier on the different nationalities of immigrants in Portugal. If he had understood correctly, there were facilitators for dealing with gender discrimination within the *Cigano* community; he would welcome more information on that matter.

54. He encouraged the Government to continue focusing on individual rights, as set forth in the Universal Declaration of Human Rights. All the other human rights treaties, including the Convention, also referred basically to the rights of individuals. Even if special measures were adopted in support of vulnerable groups, the individual approach should be maintained.

55. **Mr. Murillo Martínez** said that he was unable to subscribe fully to the individual approach because of the clear need for affirmative measures in support of entire communities and not just individuals of African descent. The State party was fortunately aware of the issues involved. The United Nations Decade for Peoples of African Descent,

which would begin at the end of 2012, would provide an opportunity for the Government to take further action on behalf of such communities.

56. **Mr. Thornberry** reassured the delegation that the Committee did not advocate the compilation of data based on racial categories imposed by the State. Any such data should be based on self-identification. States parties should adopt a creative approach, rejecting monolithic assertions of a unique identity.

57. The intercultural education strategy could be perceived as a one-way process of adaptation of immigrants to Portuguese society. That might, of course, be a distorted perspective, but the Committee was generally wary of intercultural policies that seemed to favour a dominant ethnicity. He wondered, for instance, how much the general public in Portugal knew about the cultures of immigrant groups.

58. With regard to names, the basic principle was that the names chosen by the people themselves should be respected.

59. **Ms. Farmhouse** (Portugal) said that the statistical category of foreigners consisted of all persons without Portuguese nationality who were resident in the country. Immigrants fell into the narrower category of persons who had come to Portugal for economic reasons.

60. The intercultural approach was a two-way learning process. Virtually everyone harboured prejudices that could only be eradicated through interaction and mutual understanding. That was the aim underlying intercultural education. At the same time, specific measures were clearly required for communities such as the *Ciganos* to combat poverty and social exclusion.

61. Action was being taken to raise awareness and tolerance of diversity among civil servants, teachers and health workers. Similar action involving police officers and the police trade union had produced highly satisfactory results. Participation in awareness-raising activities was voluntary, except in the case of the police.

62. *Ciganos* had been living in Portugal for about 500 years. They belonged to the Kale ethnic group and spoke both Portuguese and Kale but not Romani. Discrimination against the *Ciganos* was unfortunately quite blatant, but the *Cigano* community also discriminated against non-*Ciganos*. It was therefore important to build mutual trust.

63. **Mr. Marrecas Ferreira** (Portugal) said that the term “*assistentes*” (private prosecutors) had not been taken from an EU directive. Immigrant associations that became *assistentes* could represent victims in criminal proceedings concerning racist acts.

64. He agreed that it might be desirable to shift the burden of proof in certain civil and administrative cases where the evidence was *prima facie* and beyond reasonable doubt. However, the Portuguese legal system was not yet prepared for such a far-reaching change.

65. No discrimination-testing measures had yet been undertaken in Portugal. However, the Ministry of Justice could look into the possibility.

66. He considered that there was no need for a decision by the Supreme Court or the Constitutional Court regarding the primacy of international law. However, he was willing to study any relevant decisions by European and international courts.

67. **Ms. Bardou** (Portugal) said that the term “foreigners” referred to all non-Portuguese nationals, irrespective of their status as legal or illegal immigrants and their citizenship of an EU State.

68. **Mr. Pinto da Silva** (Portugal) said that the National Human Rights Commission was an entirely separate institution from that of the Ombudsman. It was responsible, in particular, for drafting periodic reports to human rights treaty bodies and ensuring compliance with treaty body recommendations. It also promoted coordination among

ministries and public bodies, for instance when action was required on a General Assembly or Human Rights Council resolution. The Commission involved civil society representatives in its work. Moreover, a representative of the Office of the Ombudsman was always invited to attend its meetings. However, the Ombudsman remained entirely independent of the Commission.

69. **Ms. Farmhouse** (Portugal) said that specific measures had been taken to address the gender issue in the Roma community. The pilot project for “municipal mediators” would play an important role in that regard. Two of the mediators were currently women and 17 were men.

70. **Mr. Saidou** said that the work of the National Human Rights Commission sounded like that of an inter-ministerial committee. A change of name would prevent confusion with the work of the Office of the Ombudsman.

71. **Ms. Crickley** said that Portugal had a commendable record of supporting human rights and had played a leadership role in many of the areas of concern to the Committee. However, as the delegation had acknowledged, the struggle to address racial discrimination was a work in progress.

72. Equality of treatment did not necessarily imply identical treatment. Discernment of differences and finding ways of addressing them while adopting a holistic approach and ensuring that rights were realized in the process presented a major challenge.

73. It could not be inferred from a paucity of complaints that no contentious issues existed. According to the EU Agency for Fundamental Rights, most people who were vulnerable to various forms of discrimination failed to complain owing to lack of confidence, fear of discrimination or lack of awareness of complaint possibilities and procedures. Hence, while complex measures such as online commitments were commendable, they should be accompanied by a variety of awareness-raising measures. The complaints issue therefore required ongoing analysis and effective responses.

74. The issue of discrimination in judicial matters was highly sensitive and called for further research and action. Both citizens and non-citizens were vulnerable when they were involved with the police, courts and prison authorities.

75. She supported the measures taken in support of intercultural communication. It should be acknowledged, however, that racism was the key barrier to progress in that regard. There was a clear difference between initiatives aimed at supporting integration and those aimed at addressing racism. Racial discrimination was obviously an issue for new immigrants but it did not disappear once citizenship was guaranteed.

76. While she was aware of the difference between the Roma and *Cigano* communities, she was equally aware of similarities between the two in terms of cultural characteristics, ways of life and customs. She was therefore interested to hear about the targeted measures to assist them in the National Plan for the Integration of Immigrants.

77. It would be helpful to have further information concerning the Azores and Madeira in the next periodic report. She regretted the fact that no Portuguese NGOs had met with the Committee and hoped that steps would be taken to encourage their involvement in the discussion of the next report.

78. She emphasized that creation of the conditions for self-identification did not imply the denial of national identity and encouraged the State party to engage in that process.

79. She also encouraged the Portuguese authorities to ensure that equality measures in support of women included a focus on women from minorities, including Roma and *Cigano* women.

80. **Ms. Farmhouse** (Portugal) assured the Committee that the Portuguese authorities would carefully consider all its recommendations and try to find creative and effective solutions.

The meeting rose at 1 p.m.