



# International Covenant on Civil and Political Rights

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## Human Rights Committee 128th session

### Summary record of the 3696th meeting

Held at the Palais Wilson, Geneva, on Thursday, 5 March 2020, at 3 p.m.

*Chair:* Mr. Heyns (Rapporteur)

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*Mr. Heyns (Rapporteur) took the Chair.*

*The meeting was called to order at 3 p.m.*

**Consideration of reports submitted by States parties under article 40 of the Covenant**  
(continued)

*Fifth periodic report of Portugal (CCPR/C/PRT/5; CCPR/C/PRT/Q/5; and CCPR/C/PRT/RQ/5)*

1. *At the invitation of the Chair, the delegation of Portugal took places at the Committee table.*
2. **Ms. Melo e Castro** (Portugal) said that the fifth periodic report of Portugal (CCPR/C/PRT/5) had been prepared by the National Committee for Human Rights, a mechanism that had been established in 2010 further to a commitment made by Portugal during its universal periodic review before the Human Rights Council. The National Committee was an interministerial body in which the Office of the Ombudsman and the Public Prosecution Service participated as observers. Non-governmental organizations (NGOs) and civil society organizations were involved in the human rights reporting process and were routinely consulted by the Government during the preparation of national human rights reports.
3. **Mr. Lopes da Mota** (Portugal) said that his country was deeply committed to the ideal of a society whose members fully enjoyed their freedom and their civil and political rights. The Portuguese Republic was founded upon the dignity of the human person, as proclaimed in article 1 of the Constitution. Since the restoration of democracy in 1975, Portugal had been steadfast in its efforts to strengthen and guarantee human rights; it was for that reason that it had ratified the Covenant and many other core human rights treaties, most recently the International Convention on the Protection of All Persons from Enforced Disappearance.
4. The Government considered that respect for human rights should begin with universal access to education. A national civics education strategy was in place, and all schools taught their students about human rights. Early school abandonment was a major challenge in Portugal, and several initiatives had been launched to address the problem, including the National Roma Communities Integration Strategy 2013–2020.
5. Portugal had invested heavily in human rights training for the members of its security forces and services and had put in place an oversight system comprising various internal and external mechanisms to prevent police brutality and abuse of authority. All security forces and services had their own disciplinary bodies, while the Inspectorate-General of Home Affairs carried out auditing, inspection and monitoring functions. If the Inspectorate-General detected prima facie evidence of a crime, it was obliged to inform the Public Prosecution Service, which would institute criminal proceedings. In serious cases, law enforcement officers would be immediately suspended from duty pending a judgment.
6. The Government had recently adopted regulations on the material conditions of detention in police facilities and on procedures for the inspection and monitoring of immigration detention facilities. Special attention was paid to the inspection of detention facilities and, between 2012 and 2019, 457 unannounced inspections of police premises had been carried out. Unannounced visits to immigration detention facilities had also been conducted.
7. Discrimination and incitement to hatred and violence were criminal offences under Portuguese law and carried penalties ranging from 6 months' to 8 years' imprisonment. In 2017, the Assembly of the Republic had unanimously passed a new law to combat racial and ethnic discrimination that extended the prohibited grounds of discrimination to include ancestry and territory of origin and introduced the concepts of multiple discrimination and discrimination by association. The Commission for Equality and Against Racial Discrimination strived to increase public awareness of discrimination and to ensure that victims were able to file complaints.
8. A number of steps had been taken to combat domestic and gender-based violence and to heighten awareness of those problems. Law enforcement authorities were required to take protective measures on behalf of victims as quickly as possible and in any event within a

maximum of 72 hours. Once a case had been identified, the courts applied coercive measures within 48 hours, which might include the removal of the aggressor from the home or electronic monitoring. The National Strategy for Equality and Non-Discrimination 2018–2030 included a plan of action to prevent and combat violence against women and domestic violence. Protection mechanisms for victims included the National Support Network for Victims of Domestic Violence, an online complaints system and a free emergency helpline that was available 24 hours a day, 7 days a week. A rehabilitation programme for perpetrators of domestic violence had worked with 2,400 individuals since 2014. Female genital mutilation, harassment and forced marriage were all criminal offences.

9. In 2019, the Assembly of the Republic had amended the Parity Act to increase the minimum requirement for the representation of women and men in political and public decision-making positions from 33 per cent to 40 per cent each. The Government was fully committed to promoting the rights of women and to eliminating discrimination against them, especially in the areas of equal opportunities, labour market access and wage equality. Data from the Barometer on Remuneration Differentials between Women and Men suggested that the gender pay gap had narrowed since 2015. In 2019, Portugal had become a member of the Equal Pay International Coalition.

10. Recent legislation had provided for the elimination of weekend prison sentences and permitted offenders to serve sentences of less than 2 years' imprisonment under house arrest, which was enforced by electronic monitoring. The measure had allowed about 2,000 people to leave the prison system, thereby helping to reduce the overall prison population. The proportion of remand prisoners had been brought down to about 18 per cent of the total, well below the European average. The Government had recommended implementation of the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules) in relation to the use of disciplinary cells; accordingly, prisoners were not to be kept in such cells for more than 15 consecutive days, and they had the right to a medical check-up and to two hours of outdoor activity every day. Under the Ministry of Justice multi-year strategy for upgrading and modernizing the prison system, two new prisons were to be built and eight obsolete ones, including one in Lisbon, were to be closed. Since 2017, the Government had spent €11.3 million on improving prison infrastructure and sanitation.

11. Portugal was strongly committed to upholding the right to health for all persons and to combating all forms of discrimination and stigma in the provision of health care. Since 1979 the National Health Service had provided free universal care, and constant improvements in the coverage and quality of services had made a huge impact on health indicators. Between 2017 and 2019, the Government had more than doubled its spending on health care in the prison system, and the law had been amended so that prisoners could be transferred to civilian hospitals to receive specialist psychiatric treatment. A new health-care model for prisoners sought to provide critical care to patients with viral hepatitis and HIV and to diagnose and treat prisoners with chronic hepatitis C with a view to eradicating the disease from prisons by 2020.

12. Portugal had played an important role in resettling and hosting persons in need of international protection, both in the context of the European Union relocation programme and under ad hoc arrangements to resettle migrants rescued from boats in the Mediterranean Sea. Unaccompanied minors under the age of 16 years were not housed in immigration detention facilities, while those aged 16 and 17 were kept there only for a maximum of seven days, provided it was in their best interest, and the Public Prosecution Service and the competent family court were informed of the situation. The Government had entrusted the Portuguese Refugee Council – an NGO – with the important role of providing refugees with legal advice and support; the Council also participated in international protection procedures. The National Health Service provided health care for foreign nationals, including migrants, on the same terms as it did for Portuguese nationals. Other efforts included the implementation of the National Action Plan to Prevent and Combat Trafficking in Human Beings 2018–2021, which was the fourth of its kind, and the preparation of the National Implementation Plan for the Global Compact for Safe, Orderly and Regular Migration. The Government was certain that, with the help of such initiatives, migrants and refugees, especially children and young people, would be able to integrate into society and eventually become Portuguese citizens.

13. Recognizing that the emergence of new forms of work presented a challenge in terms of labour conditions and the social protection of workers, the Government had sought to

amend the Labour Code and other laws to meet that challenge. It was also pursuing the National Strategy for the Integration of Homeless People 2017–2023, whose accompanying action plan had a €131 million budget for housing, assistance and vocational training for homeless people. Through those and many other legislative, administrative, judicial and political measures, the Government sought to improve its implementation of the Covenant and to promote and uphold respect for the highest human rights standards.

14. **Ms. Pazartzis**, noting that the State party had provided examples of cases in which the domestic courts had referred to Covenant provisions, said that she would welcome clarification concerning the judgment of the Supreme Court of Justice of 30 October 2010 relating to the right of appeal in criminal matters. It was her understanding that the Court had held that, although the Covenant had legal effect in the country by virtue of article 8 of the Constitution, it was not directly applicable by courts of law. She was interested to know what steps had been taken to disseminate the Covenant and its Optional Protocol among the judiciary, law enforcement officials and the public. She would be grateful for further details on the participation of civil society in the preparation of the report, given that some organizations had said that their involvement had not been as extensive as they had expected. She also wondered what procedures were in place for the implementation of the recommendations made by the Committee in its concluding observations.

15. Recalling that the Committee had previously voiced concern about the State party's procedures for the implementation of the Committee's Views in respect of the communication *Correia de Matos v. Portugal*, she would appreciate information concerning the effective remedies that were available to individuals once the Committee had found a violation of their Covenant rights. While she understood that Portuguese law provided for the implementation of judgments handed down by the European Court of Human Rights, it was unclear what procedures were in place to ensure the fulfilment of international obligations arising from the Covenant.

16. The Committee noted that the Office of the Ombudsman – the national human rights institution – had been accredited with A status by the Global Alliance of National Human Rights Institutions and had been designated the national preventive mechanism under the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. However, since the Office had claimed that its resources were insufficient, she wondered whether the Government considered that the annual budget allocation of €5 million allowed the Office to effectively discharge all of its duties. Information might also be provided on the process of selecting the Ombudsman and on provisions or criteria for the removal of members of the Cabinet of the Ombudsman.

17. **Mr. Shany**, noting that Portugal had witnessed a number of high-profile corruption scandals in recent years, said that a question often raised in those situations was whether the cases were a sign of endemic corruption or rather a reflection of rigorous law enforcement and a commitment to uprooting corruption in all areas of society. Should the Committee be concerned or hopeful about the progress that Portugal was making? It would be useful in that context to have an update on the status of the cases against Manuel Vicente and José Sócrates.

18. He would appreciate clarification as to why the State party felt that it was unable to share data on the number of cases that had been prosecuted under article 240 of the Criminal Code on the incitement of hate and violence. The Committee had received some unofficial statistics from NGOs but needed official data – which the State party should be in a position to provide – in order to gauge whether the provisions of article 240 were proving effective in the fight against discrimination.

19. When assessing the scope of the prohibition of discrimination contained in Portuguese law, the Committee had noted that there was apparently no catch-all wording such as “any other status” in the list of prohibited bases of discrimination. Accordingly, there might be insufficient legal protection for persons who spoke other languages or were not Portuguese nationals, for example. He wondered whether there was any systematic procedure for reviewing the adequacy of existing legislation in order to determine whether all grounds of discrimination were covered by existing provisions. He was aware that Portugal had ratified Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms, but the question was whether it would be directly applicable in criminal proceedings. Information on the actual application of article 240 in recent years would be

helpful. Finally, he would also like to know to what extent racist or homophobic motives were considered to be an aggravating circumstance under the Criminal Code.

20. He would appreciate information about the measures adopted in follow-up to the recommendations made three years previously by the Committee on the Elimination of Racial Discrimination, which had expressed concern about the prevalence of racist discourse in the media and in sport. He would also like to know how accessible and effective the remedies available to victims of racial discrimination were proving to be; reports indicated that the proceedings in such cases were lengthy and that considerable effort was required to obtain sufficient evidence to secure a conviction, especially when members of the police force were the subject of the complaint.

21. He had found the State party's response to the questions posed in paragraph 11 of the list of issues ([CCPR/C/PRT/Q/5](#)) to be somewhat laconic. The Committee would like some more specific information concerning the criteria used for the issuance of judicial consent for surgical procedures such as sterilization and abortion to be performed on persons with disabilities. He would also appreciate clarification regarding reports that persons who appeared to have some form of mental disorder could be prevented from voting unless they could produce a certificate confirming that they had the capacity to exercise their right to vote. Did that requirement still apply? If so, it seemed that the burden of proof had been unfairly reversed. He was also concerned by reports of long delays in the issuance of multipurpose medical disability certificates and, consequently, in the provision of basic support and services for persons with disabilities. Was it true that benefits were not payable retroactively? If that were the case, then the impact of such delays would presumably be exacerbated.

22. **Ms. Tigroudja** said that reports from various sources attested to a considerable extent of structural discrimination against certain groups. For example, persons of African descent were apparently 15 times more likely to be in prison, and children of African descent were 3 times more likely to fail at school, while persons of African or Roma origin were also apparently discriminated against in housing and employment. She wondered how the authorities were able to monitor the impact of those problems, identify the vulnerabilities of specific groups and take targeted action to address them when they were not permitted to collect statistics disaggregated by racial and ethnic origin.

23. It was recognized that the new law on the rights of lesbian, gay, transgender and intersex persons offered strong protection against discrimination, but NGOs had identified certain shortcomings nonetheless. For example, the law did not expressly prohibit genital mutilation, and there were no guarantees of effective access to justice and reparation for victims. She wondered whether any additional improvements in the protection and support available for those persons were envisaged.

24. It would be useful to have updated figures on women's representation in senior civil service positions and, in particular, to know whether the legal minimum threshold of 40 per cent for their representation had been achieved. More generally, she would like to know what measures, in addition to quotas, the State party was using to build a culture in which it was easier for women to move into senior management positions in all areas of the public and private sectors.

25. While the number of complaints of domestic violence had increased, the number of convictions remained very low, suggesting that impunity was still an issue. In that context, she would like to know how successful the National Plan to Prevent and Combat Domestic and Gender-based Violence had been in reaching not only the victims, but also the aggressors, and what specific measures were being taken to raise awareness of the problem and combat the stereotypes that lay at its root. She would appreciate clarification as to whether all victims had access to shelters, irrespective of where they lived, rather than only women who were living in cities or large towns.

26. **Mr. Fathalla** said that the description of the new administrative procedure for resolving complaints of discrimination provided in the State party's replies to the list of issues ([CCPR/C/PRT/RQ/5](#), paras. 38–44) did not mention the typical time frame. He invited the delegation to fill that gap and to give more detailed information on the complaints that had been addressed using the new procedure, including information on their outcomes. He would like to know whether the Commission for Equality and Against Racial Discrimination had sufficient resources to cope with the length and complexity of the new procedure and whether

it was fully independent, since it apparently reported to the Prime Minister. The delegation's comments on reports that the complexity of the procedure and the difficulties of obtaining evidence could deter victims from seeking redress would also be helpful.

27. The delegation might wish to comment on reports that persons of African descent were increasingly subjected to forced evictions without notice, without any possibility of seeking redress and without any offer of rehousing from the local authorities. It might also explain why it was that students of African origins were so vastly underrepresented in the country's universities. It had been suggested that the violence committed by some police officers against persons of African descent was attributable to the fact that officers who achieved good results and had good appraisals were able to choose the neighbourhoods in which they worked, while those officers who had less favourable assessments and were therefore under pressure to perform well were left to work in the poorer, disadvantaged neighbourhoods where there were sizeable black communities. It would be interesting to hear the delegation's views on that assertion. Information about action taken to investigate and prosecute police officers for acts of racial discrimination against persons of Roma and African descent, in particular, would be welcome, together with statistics disaggregated by ethnic origin, as the only information on the subject given in the replies to the list of issues was of a general nature.

28. **Mr. Quezada Cabrera** said that he would like to know more about the work of the Commission for Equality and Against Racial Discrimination and about its composition and its mandate. In view of the prevalence of hate speech, especially in the media and on social networks, data on offences of that kind would be helpful, as well as information about any measures under way or planned to ensure that hate crimes in the media and on social networks were duly investigated and punished.

29. **Mr. Muhumuza** said that he was concerned about the lack of statistics disaggregated by racial or ethnic origin. That shortcoming was, in his view, tantamount to denying the existence of racial discrimination, and he would appreciate an explanation of the reasons behind it.

*The meeting was suspended at 4.15 p.m. and resumed at 4.40 p.m.*

30. **Mr. Lopes da Mota** (Portugal) said that the case concerning the right to appeal a second-instance decision that had been brought before the Supreme Court of Justice in October 2010 had raised some interesting questions about the relationship between domestic law, the Covenant and the Constitution. In his capacity as a Supreme Court judge, he was actually the author of that decision. The case had had no direct precedents. The defendant had received a suspended prison sentence on second instance; in cases involving sentences of less than 5 years, the rules of criminal procedure did not allow for the possibility of challenging a court of appeal's ruling before the Supreme Court. However, that provision ran counter to article 14 (5) of the Covenant, which established that all persons convicted of a crime had the right to have their conviction and sentence reviewed by a higher tribunal. Furthermore, another case brought before the Supreme Court, which had similarities but differed in that a custodial sentence had been handed down by the court of second instance, had been referred to the Constitutional Court, which had ultimately found that the rule of criminal procedure that disallowed second appeals was unconstitutional.

31. In the case in question, he had had two options: either to disallow the appeal based on the rule of criminal procedure that prohibited second appeals in cases involving sentences of less than 5 years; or to admit the appeal on the grounds that the rule was unconstitutional. However, as a Supreme Court judge he had not been empowered to issue a declaration of unconstitutionality, and the matter had had to be referred to the Constitutional Court, which was currently considering the case. A decision was expected in the near future and would likely, in his view, admit the appeal. Under Portuguese law, international law theoretically ranked midway between the Constitution and domestic legislation. However, there was no express rule of criminal procedure that allowed a Supreme Court judge to derogate from domestic legislation on the grounds that it was incompatible with international law.

32. **Ms. Alverenga** (Portugal) said that representatives of civil society maintained a regular dialogue with the National Committee for Human Rights and were invited to comment at least once a year on the reports that Portugal was due to submit to treaty bodies. NGOs had submitted observations on the fifth periodic report of Portugal to the Committee on 5 October 2018. The Ombudsman was appointed for a four-year term, renewable once,

by a qualified majority of two thirds of the members of the Assembly of the Republic who were present in plenary. The Office of the Ombudsman was an independent body, and the incumbent Ombudsman could not be removed from office during his or her term. The Ombudsman was responsible for appointing his or her own deputies, who must meet a certain number of criteria, including proven integrity and independence. The budget of the Office of the Ombudsman was established by the legislature. It had remained stable in recent years but it was true that it was not sufficient to ensure that the Office could fulfil its mandate effectively, and that issue had been raised with the authorities. It was also true that there had been a prolonged delay in the issuance of disability certificates in 2017 which had in part been the result of a decrease in staffing levels. Portugal had been in the midst of a period of economic austerity at that time which had entailed staff cuts. It was important to note, however, that applicants for disability allowances were entitled to receive the allowance as soon as their application had been accepted. With regard to gender parity, women were well represented in senior posts in government ministries. In the Ministry of Foreign Affairs, for example, three of the five senior political positions were occupied by women.

33. **Mr. Lopes da Mota** (Portugal) said that strict budgetary restrictions had been in place in Portugal for a number of years. The lack of financial resources had had an adverse effect on the work of all State institutions. Nonetheless, the Office of the Ombudsman had been and would continue to be able to fulfil its mandate effectively, as evidenced by the report submitted by the Office to the Committee as background information for the State party's periodic report.

34. **Ms. Pimentel** (Portugal) said that, with regard to the issue of corruption, the State party's legislative framework had been bolstered by the ratification of the Additional Protocol to the Criminal Law Convention on Corruption of the Council of Europe and by the adoption of a number of other legal instruments pursuant to recommendations made by the Council of Europe Group of States against Corruption and the Organization for Economic Cooperation and Development. The recently adopted Governmental Code of Conduct clarified the conditions under which members of the Government were permitted to accept gifts and invitations from private entities. The Council for the Prevention of Corruption had ruled that all public authorities were required to prepare corruption risk management plans. In late 2019, the Government had approved the establishment of a working group tasked with defining a comprehensive national strategy to combat corruption, developing government programmes on the issue and preparing a national anti-corruption report. Those measures had made members of society more aware of the Government's efforts to combat corruption.

35. **Mr. Lopes da Mota** (Portugal) said that Portugal had the legal framework and the material and financial resources to combat corruption effectively. Experience had shown that the Government's system for detecting corrupt practices and prosecuting the perpetrators was working well and was helping to prevent other complex forms of criminal behaviour, such as money laundering.

36. **Mr. Tainhas** (Portugal) said that, under Portuguese law, defendants in criminal proceedings were not permitted to conduct their own defence. Although such persons were allowed to participate in the preparation of their defence, qualified legal counsel was required to take the lead. Defendants might not have the requisite technical knowledge to represent themselves effectively and were not in a position to take an objective approach to their case. Defendants were free to submit complaints to the Office of the Ombudsman. The Government could not provide statistics on the number of proceedings opened, investigations conducted or convictions handed down on the basis of article 240 of the Criminal Code because the collection and retention of such data were prohibited under Portuguese law. Article 240 was very broad in scope, although it did not cover all prohibited grounds for discrimination listed in the Covenant; for example, it did not cover discrimination on the grounds of language. However, Protocol No. 12 to the Convention for the Protection of Human Rights and Fundamental Freedoms did address that particular form of discrimination. Racial or xenophobic motives were considered to be aggravating circumstances under Portuguese criminal law in cases of murder and assault.

37. **Mr. Pina** (Portugal) said that the Commission for Equality and Against Racial Discrimination worked to ensure access to justice for victims of discrimination on the grounds of race, ethnicity, skin colour, nationality, descent or home country. It was authorized to receive complaints of discrimination, to initiate administrative proceedings and to hand down administrative decisions. Complaints could be submitted through email, on the

Commission's website, in person at the Commission's offices or through law enforcement agencies. All public entities kept registers of the reports and complaints brought to their attention, and all such reports pertaining to racial discrimination were referred to the Commission. Following major legislative changes in 2016, the remit of the High Commission for Migration and the Commission for Equality and Against Racial Discrimination had both been expanded. New legislation expressly prohibited multiple discrimination and discrimination by association and empowered the Commission for Equality and Against Racial Discrimination to request information directly from law enforcement agencies and other stakeholders. The Commission was bound by law to initiate proceedings within 90 days of receiving a complaint, although an extension of 60 days could be requested in complex cases. The total number of complaints received each year had significantly increased between 2014 and 2019, primarily owing to increased awareness on the part of the general public of discrimination and of the work of the Commission.

38. Taking complaints to the stage where the judicial authorities were in a position to convict the perpetrator was often made difficult by victims' reluctance to cooperate with the complaints procedure after having submitted their initial report. All efforts were made to reassure victims that the complaints mechanism was confidential and effective. The Commission for Equality and Against Racial Discrimination was composed of 31 independent members drawn from various sectors, including representatives of parliamentary groups, the Government, immigrants' associations, anti-racism associations, trade unions, employers' associations and the Roma community. It was headed by the High Commissioner for Migration, who was assisted by a bureau of support staff from the High Commission. The investigation of complaints was handled by legal experts within the bureau, but all decisions were handed down by a group comprising the High Commissioner and two other members. A new ministerial department for integration and migration had been established, and the Commission for Equality and Against Racial Discrimination would soon be separated from the High Commission for Migration and brought under the authority of that new department. Awareness-raising campaigns had been launched to tackle hate speech on social media. The Government and various associations had recently met with representatives of Facebook in order to discuss strategies for dealing with online racial discrimination. Evidence of online hate speech was reported to the Public Prosecution Service.

39. **Mr. Abrantes** (Portugal) said that a number of measures had been taken since 2016 to combat violence and hate speech in the area of sport. Awareness campaigns on the subject had been conducted, a specific body for the prevention of violence in sport had been established, and a new law had been passed on the prevention of violence, intolerance and xenophobia at sporting events that placed greater responsibility on event organizers and supporters' associations to address those problems.

40. The Government had stepped up its efforts to collect disaggregated data on school abandonment with a view to addressing the considerable disparities between different social groups, which were attributable to a range of socioeconomic and cultural factors. By adopting an education policy aimed at the success and inclusion of all pupils, the Government had managed to reduce the primary and secondary school dropout rate by 30 per cent. It had taken steps to ensure that complaints of discrimination in the field of education were addressed and that classes were not composed primarily of pupils from a single social or cultural group. It had also introduced programmes to promote intercultural education, to support vulnerable pupils and to ensure the inclusion of Roma children.

41. **Ms. Galhardo** (Portugal) said that only persons with dementia who had been hospitalized in a psychiatric institution were unable to vote. Persons with a motor, sensory or intellectual impairment could request assistance in exercising their right to vote, provided that they had the necessary medical certificate. There had been delays in issuing multipurpose medical disability certificates because medical boards were understaffed and because the number of requests for certificates had significantly risen following the increase in tax benefits for certificate holders and the decrease in the issuance fee from €50 in 2016 to €12.50 in 2018.

42. **Mr. Caetano** (Portugal) said that all decisions relating to sterilization, scientific research, electroconvulsive therapy, abortion and psychosurgical interventions that involved persons with disabilities who had been declared legally incapacitated were based on a medical assessment and a legal declaration made by the person concerned with the assistance of a legal representative. Decisions relating to sterilization must be considered by the

National Medical Ethics Association and approved by the courts; sterilization was practised only in cases where there was a serious risk to life. Psychosurgical interventions could be performed only on the basis of a judicial decision, an opinion from the Mental Health Council and the consent of the person concerned. Similarly, individuals could not be required to undergo electroconvulsive therapy or to participate in scientific research without their consent. Decisions relating to abortion were taken all the more seriously in cases where the person had a disability, although there was no specific standards governing such cases.

43. **Ms. Marques** (Portugal) said that article 5 of the new law on the rights of lesbian, gay, bisexual, transgender and intersex persons stipulated that minors could not undergo surgical, pharmacological or other interventions that would result in changes to their body or sexual characteristics until their gender identity had been established, except in cases where they were deemed to be at risk. There had been some cases in which medical interventions involving intersex persons had been found to constitute genital mutilation.

44. As a result of the implementation of Act No. 62/2017, the proportion of women in decision-making positions in State-owned companies and listed companies had increased. The Parity Act had been amended to stipulate that women must account for at least 40 per cent of the members of the legislature; as a result, the proportion of women members of the Assembly of the Republic had risen from 33.3 to 38.7 per cent following the legislative elections of 2019. A similar law stipulating that women must account for 40 per cent of senior civil servants had recently been passed; the impact of that law would be evaluated later in 2020. The Forum of Companies for Gender Equality had carried out awareness-raising activities in various companies in order to promote gender equality in the business world.

45. Civics courses covering issues such as human rights and gender equality were taught at all levels in the schools in order to combat gender stereotypes. The Government had produced guidance for primary and secondary school communities on identifying and responding to cases of domestic violence. The Directorate-General for Reintegration and Prison Services had put in place a programme that was aimed at preventing perpetrators of domestic violence from reoffending. An extensive network of emergency response centres had been set up in order to support victims of domestic violence. Additional support was provided to victims with disabilities or mental health problems. All services for victims of domestic violence were free of charge. The Government was increasing its investment in those services in order to make them available throughout the nation; as things currently stood, those services were available in over 74 per cent of the country.

46. **Ms. Lopes** (Portugal) said that members of the National Republican Guard, the Public Security Police and the Immigration and Border Services received initial training on human rights, non-discrimination and the principles governing the use of force. Other training programmes for law enforcement officers included the “Together for All” programme, which covered issues such as diversity and intercultural dialogue.

47. Misconduct on the part of law enforcement officers was dealt with by the Inspectorate-General of Home Affairs or the courts. There had been five disciplinary cases involving members of the Public Security Police in 2016, compared with one case in 2017, six cases in 2018 and no cases in 2019. There had been two disciplinary cases involving members of the National Republican Guard in 2019. There was nothing in national law that provided for law enforcement activities to be stepped up in certain communities based on the composition of those communities.

48. **Ms. Pimentel** (Portugal) said that there were several reasons why the number of convictions for domestic violence had remained low despite an increase in the number of complaints. One reason was that such violence often took place behind closed doors and was therefore difficult to prove in court. Another was that some victims were unwilling to lodge a complaint or reluctant to cooperate in cases where a complaint had been filed by a third party. In addition, some victims made a complaint but later retracted it.

49. **Mr. Shany** said that he did not understand why the State party was unable to reveal how many court cases had been brought under article 240 of the Criminal Code. It also remained unclear to him whether Protocol No. 12 to the European Convention for the Protection of Human Rights and Fundamental Freedoms took precedence over the Criminal Code. It would be helpful if the delegation could specify the exact article of law in which racist and homophobic motives were defined as aggravating circumstances.

50. He would like to know how many medical and psychosurgical interventions involving legally incapacitated persons with disabilities had been approved by the courts in recent years. He would also appreciate more information on the procedure for obtaining consent in such cases, for it was not clear whether consent was sought from patients directly or through their legal guardian or representative.

51. **Mr. Fathalla** said that he would like to invite the delegation to confirm whether the Commission for Citizenship and Gender Equality remained under the authority of the Prime Minister and to comment on the reports of racist violence committed by police officers against members of ethnic minorities.

52. **Mr. Quezada Cabrera** asked whether any activities or events had been organized in schools to raise awareness among children and adolescents of the problem of hate speech on social media.

53. **Ms. Tigroudja** said that she would like to know whether some schools in the State party still had classes that were composed solely of Roma children or children of African descent. She also wished to know whether the subjection of intersex children to genital mutilation had been defined as a criminal offence. In the light of article 55 of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (the Istanbul Convention), she would like to learn more about the efforts being made to ensure that cases of domestic violence were investigated and prosecuted even if there was a lack of evidence or the victim was reluctant to testify.

*The meeting rose at 6 p.m.*