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UNIVERSAL PERIODIC REVIEW OF PORTUGAL

STATEMENT BY THE H.E. THE PERMANENT REPRESENTATIVE
AMBASSADOR FRANCISCO XAVIER ESTEVES

Geneva, 18th March, 2010

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Mr. President,

It is an honour for me to address the Human Rights Council during the adoption of the outcome of the Portugal's first Universal Periodic Review.

Mr. President,

On the 4th of December 2009, our delegation to the working group reiterated the Portuguese Government strong commitment to human rights, presented recent measures undertaken to live up to this commitment and identified remaining challenges.

Our national report was the result of extensive consultations within an inter-governmental working group set up to that effect, and was also the object of open consultations with civil society.

Mr. President,

I would like to use this opportunity to add some further information on some questions and issues that were raised during our review.

First of all, I would like to update you on the one voluntary commitment that we have announced in our review, to establish a national Human Rights Commission.

This national Human Rights Commission will be an interministerial body with the competence to coordinate the implementation at the national level of all our international human rights obligations and voluntary commitments. It will ensure not only the follow up to the UPR exercise, but also the timely and adequate reporting to all Human Rights International Bodies. It will also ensure the translation of all our international commitments into obligations at the national level, thus leading to national legislation and to the set up of concrete policies and plans.

I am glad to announce that, by a happy coincidence the institutional set up of this Commission will be approved by our Council of Ministers today.

During the course of the Working Group meeting 47 delegations took the floor, formulating questions and recommendations. I would like to thank, once again, the delegations that intervened in the debate and to assure them that my Government gave its full attention to these recommendations.

89 recommendations were formulated, and we immediately accepted 71. They corresponded mostly to areas that we had already identified in the course of the preparation of the national report, as crucial areas that required further attention. 21 of these recommendations had already been implemented or were in the process of implementing. We will report regularly on the implementation of these recommendations.

Out of the 89 recommendations formulated, we rejected one on the occasion of the consideration in the working group: the recommendation to sign and ratify the International Convention on the Protection of the Rights of All Migrant Workers and their Families.

I want to reiterate that by rejecting this recommendation we do not mean to imply that the protection of the rights of migrants is not fundamental. Quite the contrary. We rejected this recommendation because we do not consider it indispensable to ensure the same rights and the degree of protection enshrined in the Convention. In fact, all rights of migrants are already protected in our legal system, through other International Conventions to which Portugal is a party, through European Union and national law, which is particularly considerate of immigrants, allowing for an extensive protection of all the rights envisaged in the Convention. Portuguese law guarantees the basic human rights of all migrant workers and members of their families, regardless of their status, such as access to health services and education.

The 2009 UN Human Development Report recognized Portugal as the highest ranked country in the world regarding the provision of support services and access to rights by immigrants. We are very proud of this recognition, and we will increase our efforts to ensure that we will continue to deserve it, as immigrants have always been an essential part of our society.

Mr. President,

There were also other 17 remaining recommendations whose consideration we deferred to a later stage. We have now expressed our position regarding each one of them in an addendum to our national report. I am happy to announce that, as you can see from the addendum, we have accepted almost all of them, bringing our final number of accepted recommendations to 86 out of 89.

I will now go into some more detail and I will start with the accepted recommendations that we have undertaken to implement, then move on to the accepted recommendations already implemented or in the process of being implemented and will finish with the two remaining recommendations that we have rejected after careful consideration.

Regarding the accepted recommendations to:

- (i) become a party to the Optional Protocol to the International Covenant on Economic, Social and Cultural, which Portugal signed on the 24th September 2009;
- (ii) ratify as soon as possible the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
- (iii) ratify as soon as possible the International Convention for the Protection of All Persons from Enforced Disappearance;

Since December, we have been initiated the procedure of ratification, involving the Government, the Parliament and the President of the Republic, and we hope to deposit their instruments of ratification by the next session of the UN General Assembly.

On the specific case of the Optional Protocol to the Convention against Torture, an intergovernmental working group has been created to identify the national preventive mechanism for the monitoring of detention facilities in compliance with the criteria laid down in the OPCAT. This process is proceeding simultaneously with the ratification procedure.

As regards the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, and in line with the recommendation to continue to play an important role in multilateral fora in support of the promotion and protection these, we have initiated

diplomatic efforts to promote its ratification with the aim of ensuring a swift entry into force. We will also continue to present a relevant resolution, which we will introduce in the Council's June session.

Mr. President,

Allow me to turn now to the 21 recommendations that we have already been implementing and are referred in paragraph 102 of the report.

As we informed the UPR Working Group in December, we deposited our instruments of ratification of both the International Covenant on the Rights of Persons with Disabilities and its Optional Protocol on the 23rd of September 2009. They came into force on the 23rd of October 2009 and the National Institute for Rehabilitation is the national focal point. We have progressively been adopting legislation in this area in recent years, reflecting the importance we dedicate to these matters.

Regarding the recommendation to establish a national human rights institution, I would like to clarify that the Portuguese Ombudsman – the *Provedor de Justiça* is accredited as a national human rights institution with “A” status by the International Coordinating Committee of National Institutions for the Protection and Promotion of Human Rights, in conformity with the Paris Principles, since 1999. It is an independent organ dedicated to the defense of the legitimate rights and interests of citizens. Citizens may submit complaints about actions or omissions of the public authorities to the Ombudsman, who will investigate them and make recommendations to the competent bodies to prevent or redress injustices.

On the recommendation to develop a comprehensive strategy on the a implementation of the Convention on the Rights of the Child, I recall that a National Initiative for Childhood and Adolescence, based on the UN Convention of the Rights of the Child, the recommendations of the UN Committee on the Rights of the Child and the UN Study on Violence against Children was elaborated in 2007. This National Initiative takes into account the transversal nature of issues relating to child rights and the need to define adequate resources, establish priorities and allocate budgets, which are all essential to

create favourable conditions to guarantee these rights. This strategy was based on direct contributions by all Ministries, key departments and civil society organisations responsible or dedicated to the promotion of the rights of the child.

The recommendation regarding street children phenomenon was first addressed by the CRC in 1995, and since then numerous initiatives and efforts have been undertaken and the problem is no longer a significant issue in Portugal.

Mr. President,

Regarding the recommendation to regularly and in due time report to the Treaty Bodies, we set up in 2008 an inter-ministerial working group to review and elaborate all overdue reports. This exercise has taken some time also because it will be the first time we will present the core document according to the new harmonized guidelines. We hope that with the new impetus that the national Human Rights Commission will bring to the inter-ministerial coordination in the field of Human Rights we will be able to deliver all overdue reports until the end of this year.

As for the recommendation to ensure that complaints against direct or indirect racial discrimination are duly dealt in the most effective manner possible, I would like to inform that its implementation can be traced back to 2005, when a Victim Unit to Immigrants and Victims of Racial and Ethnic Discrimination was set up in cooperation with a Portuguese NGO.

This Unit receives public financing on a yearly basis from the High Commission for Immigration and Intercultural Dialogue, and provides support free of charge to victims of racial discrimination and to immigrant victims in general. Also, the very functioning and work of the High Commission itself – a public institute established in 2007 - demonstrates our firm determination to prevent and discourage all discriminatory acts and practices.

It is also possible to file a complaint for acts of racial discrimination that constitute administrative infractions before the Commission for Equality and against Discrimination, and a discriminatory act or practice can also constitute a crime, according to our criminal law.

As for the recommendation to continue and strengthen the efforts carried out by the High Commission for Immigration and Intercultural Dialogue to combat racism, discrimination and intolerance, I would like to underline innovative actions and activities in the social, cultural, arts and sports areas that have raised public awareness through campaigns, contests, television, radio programmes, studies and publications.

The Plan for Integration of Immigrants, adopted in 2007, which sets the guidelines for public policy in the area of integration, covering several areas such as employment, education, health and the prevention and fight against racial discrimination is also another example that responds to several recommendations addressed to us. This Plan seeks to stimulate the participation of immigrants in the conception, development and evaluation of immigration policies. It is based on the clear assumption of responsibility by the State towards the integration of immigrant citizens, with a special emphasis on the reinforcement of social cohesion and on the improvement of integration and managing of cultural diversity.

Regarding a specific recommendation on the promotion of intercultural dialogue at the national level, I would like to inform you that Portugal has set up national support immigrant centres and local support immigrant offices that provide information and support to immigrants.

Mr. President,

The issue of domestic violence is a priority for Portugal and has long been treated as such.

The legal framework was completed in September 2009 with the adoption of a Law on compensation to victims of domestic violence and another Law on the legal regime applicable to the prevention of domestic violence and to the protection and assistance to its victims. These laws aim to develop awareness, increase the victims' protection and ensure prosecution and conviction of the perpetrators.

A free domestic violence victim information helpline has been in operation since 1998 to give, information, support and advice.

A National Network of Domestic Violence Centres was set up in 2005 to provide an integrated response to cases of domestic violence complementing the existing shelters network. Coverage of the whole country was achieved in January this year.

The Shelters Network covers the whole national territory through 36 shelters with a capacity of 500 places for women victims of domestic violence and their children. Its occupancy rate was 87% in 2008 with 659 women and 784 children benefitting from these Shelters.

Finally, a growing investment in awareness campaigns and in the training of police and prosecutors in the specific area of domestic violence has been taking place, which resulted in a considerable progress in police and judicial practices.

Mr. President,

We were also recommended to evaluate measures taken regarding the action plan to combat human trafficking and to share our experiences and best practices with the international community. In this regard, let me inform you that our first National Plan is in place until June of 2010, and it includes a total of 63 measures, of which more than two thirds have already been accomplished. We have already begun the elaboration of the second National Plan, which will be based on an evaluation that is being undertaken by independent consultants.

We have been sharing our model of signalization, identification and integration of victims and the model of our Observatory on Trafficking in Human Beings with other EU member states and Portuguese Speaking Countries. We have also been presenting the model of the Observatory, integrated in the national strategy to combat trafficking in side events at the United Nations, and we hope to be able to make this presentation again in the Twelfth United Nations Congress on Crime Prevention and Criminal Justice that will take place in Brazil in April.

The OHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking have been used as a reference in the development of our anti-trafficking

policy. As an example of measures introduced in Portugal that have highlighted the concern for the victim is the offer of psychological, medical and judicial assistance, including with the help of an interpreter and the possibility of granting a residence permit with access to official programmes leading to social integration.

The protection of the rights of children of prisoners, which was raised in another recommendation, is ensured in Portugal in accordance with the principle of the best interest of the child. Having this in mind, an amendment to allow children up to 5 years old to stay with their mothers in prison, instead of the current 3 years old limit, is being envisaged.

Mr. President,

Moving finally to the two recommendations that we have rejected after careful consideration, I will not go into detail as our position regarding each one of them is set out in the addendum that we have presented. I would however like to explain why we have rejected them.

We rejected the recommendation to develop a national human rights plan in accordance with the Vienna Declaration because we considered that we could not prejudge the work that will be carried out by our National Human Rights Commission, which is about to begin its work. Human rights being transversal, all of our governmental policies and programmes take them into consideration. In this spirit, even though we do not yet have one global national human rights plan, we have several sector plans that do accommodate the concerns expressed in this recommendation. Let me assure that this recommendation will be one of the issues on the top of the agenda of the new Commission and we will later inform the Council on the results of its deliberations.

We have also rejected the recommendation to incorporate representatives of ethnic minorities in the security forces because the Portuguese Constitution establishes the Principle of Equality as one of the Fundamental Principles guiding the Public Administration. This principle is therefore fully applied through a horizontal and legally binding approach, encompassing the recruitment and classification of law enforcement officers. In this regard, there is no specific program for the selection/recruitment of ethnic

minority members for the security forces, just as there are no barriers to their entry. All applicants are submitted to the defined requirements and criteria, equal for all citizens, in accordance with the general principles of Equality and Fairness. Furthermore, we believe that improving the relationships between the security forces and the citizens does not depend on their ethnic origin but on their preparation to deal with specific realities and problems. For this reason, specific training in human rights education and training has been developed by the security forces.

Mr. President,

The UPR recommendations will be translated into Portuguese and will be disseminated within our national institutions, in partnership with Parliament and civil society.

Let me reiterate that we will strive to inform the Council, on an annual basis, on the implementation of the recommendations.

Thank you Mr. President