

PORTUGAL

Amnesty International

*Recommendations
to the UN Universal
Periodic Review, April-May 2014*



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UPR Recommendations Amnesty International

PORTUGAL¹

1) **On the ratification and implementation of human rights treaties**

Portugal should sign and ratify the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families.

Portugal should also take all appropriate measures to ensure that the recommendations of the Committee on the Rights of the Child are fully implemented, particularly those related to child poverty, asylum-seeking and refugee children, and to the juvenile justice system.²

Furthermore, in the wake of the EU-wide survey on Violence against Women by the European Agency for Fundamental Rights³, Portugal should provide information on the implementation of the Council of Europe Convention on preventing and combating violence against women and domestic violence (Istanbul Convention).⁴

2) **On torture, other ill-treatment, excessive use of force by police and prison conditions**

Portugal should conduct investigations into all allegations of torture or other ill-treatment by police, establish a central complaints mechanism, and address the issue of prison conditions.

Portugal should promptly conduct thorough, impartial and effective investigations into all allegations of torture or other ill-treatment by police,⁵ and to bring those responsible to justice,⁶ as well as to establish a central complaints mechanism to process in a timely manner all complaints of torture and other ill treatment.

Portugal should also address the issue of prison conditions,⁷ namely, overcrowding,⁸ through the application of non-custodial measures as an

alternative to imprisonment, and by ensuring that pre-trial detention is used only exceptionally, in line with international standards.⁹

3) On counter-terrorism

Portugal should ensure that an investigation into the possible role of Portuguese officials and the use of state territory in connection with human rights violations associated with the programme of CIA renditions.

Following the ratification of the Convention for the Protection of All Persons from Enforced Disappearance in January of 2014,¹⁰ there is an urgent need to ensure that a full, effective, and independent investigation into the possible role of Portuguese officials and the use of state territory in connection with human rights violations associated with the programme of CIA renditions or other unlawful transfers is conducted, and to make the findings public.¹¹

4) On Economic, Social and Cultural Rights

Portugal should conduct a human rights impact assessment of economic recovery plans and policies carried out in the context of the economic recession and establish a national monitoring mechanism in order to measure whether or not these plans and policies conform to human rights obligations.

In the context of the continuing economic challenges facing the country, the resulting impact on the enjoyment of economic and social rights is a serious concern.¹² The Portuguese government should act preventively in order to evaluate the potential negative impact of any austerity measures on the enjoyment of human rights, particularly the impact on the most vulnerable groups in society, before implementing such measures.¹³

Even in times of resource constraints, Portugal, a party to the International Covenant on Economic, Social and Cultural Rights,¹⁴ has an obligation to respect, protect and fulfill economic, social and cultural rights.¹⁵

The Portuguese government must demonstrate that their decisions prioritize and do not impede the realization of human rights,¹⁶ and prove that measures taken in the context of the economic recession¹⁷ are not in violation of the terms of the International Covenant on Economic, Social and Cultural Rights and its Optional Protocol.¹⁸

If measures are taken that would imply a retrogression in the enjoyment of human rights, Portugal must show that such a course of action is based on the most careful consideration and can be justified by reference to the totality of the

rights provided for in the Covenant and by the fact that full use was made of available resources.¹⁹

Therefore, Portugal should conduct a human rights impact assessment of economic recovery plans and policies as a basis for the revision of these measures, particularly in relation to the impact of such policies and plans on vulnerable groups. A national monitoring mechanism should be established in order to measure whether or not these plans and policies conform to human rights obligations including the obligation of non-discrimination.²⁰

5) On Discrimination

Hate crimes

Portugal must review its Criminal Code to ensure that hate crimes perpetrated on all prohibited grounds under international human rights law are prohibited and that any discriminatory motive associated with all the acts that constitute a criminal offence under domestic law is thoroughly investigated. Portugal should also consider the ways and means of introducing a national data gathering system in order to assess the extent of racism and racial discrimination.

Hate crimes are criminal offences targeting people because of their real or perceived links to a group defined by characteristics such as race, ethnic origin, disability, age, sexual orientation or gender identity. They constitute a form of discrimination²¹ because the target is chosen on the basis of personal characteristics that constitute protected grounds under international human rights law.

International human rights treaties oblige states to protect people from discriminatory violence and harassment. For example, the Convention on the Elimination of all forms of Racial Discrimination obliges states to punish “acts of violence or incitement to such acts against any race or group of persons of another colour or ethnic origin.”²²

States should ensure that all forms of hate crimes are prohibited by law.²³ They should also establish policies and practices aimed at ensuring the effective implementation of such laws and providing guidance to investigative and judicial authorities on how to deal with hate crimes.²⁴ Their responses should form part of broader policies aimed at eliminating discrimination and promoting equality.

The European Court of Human Rights has found in several instances that the failure to thoroughly investigate the alleged racist motive for a crime violated the European Convention for the Protection of Human Rights and Fundamental Freedoms,²⁵ specifically the equal enjoyment of several rights set out by the Convention including the right to life (Article 2) and the right to be free from inhuman and degrading treatment (Article 3).²⁶

According to Portuguese criminal law, perpetrating a murder or an assault on the basis of a discriminatory motive, based on the race, religion, ethnic or national origin, sex, sexual orientation or gender identity of the victim, constitutes an aggravating circumstance (Articles 132, nr. 2 e) and 146, nr.2). However, there is no explicit legal basis in domestic law for investigating and prosecuting any discriminatory motive associated with other crime than murder and assault.

Portugal should also collect and disaggregate data on manifestations of racism and discrimination,²⁷ in order to evaluate the situation regarding racial, ethnic and minority groups,²⁸ in order to ascertain whether particular groups are disadvantaged or discriminated against on the basis of race, ethnicity or religion, and to ensure that this is done with respect for the principles of confidentiality, informed consent and voluntary self-identification.²⁹

Roma

Portugal should take further steps to combat all forms of discrimination against Roma. In particular, Portugal should strive to effectively implement its National Roma Communities Integration Strategy (2013-2020), adopted in 2013.³⁰ Moreover, Portugal should promptly, thoroughly and effectively investigate any case of violence targeting Roma communities.

Inadequate responses to cases of discrimination, violence and ill-treatment of Roma individuals and communities, including at the hands of law enforcement agents, continue to be reported.

As reiterated by the Human Rights Committee³¹ and the Committee against Torture,³² Roma communities should be protected from racist motivated violence and in instances where such violence occurs, investigation should be prompt, effective and thorough. Any alleged discriminatory motive should be thoroughly investigated and taken into account in the prosecution of the suspects if the results of the investigation warrant doing so.

Furthermore, authorities should publicly condemn harassment and discrimination against Roma and any abuse against them by law enforcement officials. Finally, authorities should increase training of law enforcement personnel to refrain from racist and discriminatory conduct, as well as on combating crimes against minorities, and encourage the recruitment of members of the Roma community into the police force.³³

Discrimination on grounds of sexual orientation

Portugal should review Law 9/2010 of 31 May 2010 to ensure that married same-sex couples can access adoption and thus found a family and enjoy their right to private and family life without any discrimination on the ground of sexual orientation.

In 2010 Portugal adopted a law allowing same-sex partners to enter civil marriage (Law 9/2010)³⁴. However, this law explicitly rules out the possibility for married same-sex couples to adopt children.³⁵ Such restriction discriminates against same-sex couples in the enjoyment of their rights to found a family and to private and family life on the ground of sexual orientation.

Sexual orientation is a well-established prohibited ground of discrimination in international human rights law.³⁶ Moreover, sexual orientation is a prohibited ground of discrimination under the Portuguese Constitution.³⁷

The rights to found a family and to private and family life are protected by several international human rights treaties including the International Covenant on Civil and Political Rights (ICCPR, Article 23.2)³⁸ and the European Convention for the Protection of Human Rights and Fundamental Freedoms (Article 8)³⁹ respectively.

In 2013 the European Court of Human Rights found that restricting second-parent adoption to unmarried different-sex couples in Austria was in violation of Article 8 (right to private and family life) in conjunction with Article 14 (non-discrimination)⁴⁰ because it discriminated against unmarried same-sex couples.⁴¹

Although Portugal started a parliamentary procedure in order to consider the introduction of legislation in 2013 to allow second-parent adoption,⁴² a law proposal that would have ensured the right of same-sex couples to adopt children on equal footing with different-sex couples was rejected in March 2014.⁴³

Refugees and asylum-seekers

Portugal should ensure the timely processing of asylum applications, to reduce the waiting time for asylum-seekers. The Portuguese authorities should also increase accommodation capacity and conditions, in order to alleviate overcrowding.⁴⁴

Portugal should revise recently adopted legislation⁴⁵ on the reception of asylum-seekers, in order to ensure that any deprivation of liberty of asylum-seekers and refugees is in line with international human rights law.

As reaffirmed by the 2012 United Nations High Commissioner for Refugees guidelines on the applicable criteria and standards relating to the detention of asylum-seekers and alternatives to detention, detention of asylum-seekers is an

exceptional measure that can only be justified for a legitimate purpose, after a full consideration of all possible alternatives.⁴⁶

The new asylum law has been adopted in 2014 in order to transpose relevant EU Directives into the Portuguese legal system. Compared with the previous asylum law,⁴⁷ the new law has broadened the possibilities whereby people in need of international protection can be detained, although under relevant EU Directives there is no obligation for Portugal to take such action.⁴⁸

6) On a National Human Rights Plan

Portugal should develop a National Human Rights Plan in accordance with the Vienna Declaration and Program of Action, and strengthen the Ombudsman as a National Human Rights Institution, in line with the UN Paris Principles.

Currently there are several separate human rights plans in Portugal, focused on specific areas such as the promotion of gender equality,⁴⁹ or the National Roma Communities Integration Strategy.⁵⁰

However, Portugal does not have a comprehensive national human rights plan, covering a wider range of human rights issues. Therefore, Portugal should adopt a National Human Rights Plan to systematize the implementation of human rights obligations, to promote dialogue and participation with all sectors of society, and to advocate a rights-based approach in policy making at all levels of government.

As a National Human Rights Institution, the Ombudsman (“Provedor de Justiça”) should have a key role in the promotion of a National Human Rights Plan. Therefore, it is recommended that Portugal develops a National Human Rights Plan in accordance with the Vienna Declaration and Program of Action,⁵¹ with the inclusion of measures to strengthen the NHRI, in line with the UN Paris Principles.⁵²

ENDNOTES

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² Committee on the Rights of the Child, Concluding observations on the third and fourth periodic reports of Portugal, 31 January 2014 (CRC/C/PRT/CO/3-4), pages 15, 16, 17 and 19, available at: http://tbinternet.ohchr.org/Treaties/CRC/Shared%20Documents/PRT/CRC_C_PRT_CO_3-4_16303_E.pdf

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³ FRA – European Union Agency for Fundamental Rights, Violence against women: an EU wide survey, Main results, 2014, available at: http://fra.europa.eu/sites/default/files/fra-2014-vaw-survey-main-results_en.pdf (accessed 30 March 2014).

⁴ Council of Europe, Council of Europe Convention on preventing and combating violence against women and domestic violence, 12 April 2011, available at <http://www.coe.int/t/dghl/standardsetting/convention-violence/convention/Convention%20210%20English.pdf> (accessed 29 March 2014). See also Council of Europe Recommendation Rec(2002)5 of the Committee of Ministers to member states on the protection of women against violence, 30 April 2002, available at: <https://wcd.coe.int/ViewDoc.jsp?id=280915> (accessed 25 March 2014) and Gender Equality Commission, Analytical study on the results of the 4th round of monitoring the implementation of Recommendation Rec(2002)5 on the protection of women against violence in Council of Europe member states, available at: <http://www.coe.int/t/dghl/standardsetting/convention-violence/Docs/Analytical%20Study%20ENG.pdf> (accessed 25 March 2014).

⁵ Human Rights Committee, Concluding observations of the 4th periodic report of Portugal, adopted by the Committee at its 106th session, 23 November 2012 (CCPR/C/PRT/CO/4), paragraph 10, available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhshYSuxMUifRly90VnAxQecERkrhw0HNABEmOMlrYgBfJOM1a4dzXWg2mAMGYzi8shK4CQxUfqI21KiVhIJ%2b037HY85jgm2HEoRRQnBspoCFO> (accessed 4 February 2014).

⁶ Committee against Torture, Concluding observations on the combined fifth and sixth periodic reports of Portugal, 23 December 2013 (CAT/C/PRT/CO/5-6), paragraph 9, available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsvQVdNRtaN7IpelGqXma5IWbFlgQVEq26IDSUjGxL8HMztcuEw05F1Xa1U0zb3IVtX%2bWg7XOn6ADtf6zhbu3C7tdAZmx1idVLyCzgLPIADwT> (accessed 12 February 2014).

⁷ Human Rights Committee, Concluding observations of the 4th periodic report of Portugal, adopted by the Committee at its 106th session, 23 November 2012 (CCPR/C/PRT/CO/4), paragraph 11, available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhshYSuxMUifRly90VnAxQecERkrhw0HNABEmOMlrYgBfJOM1a4dzXWg2mAMGYzi8shK4CQxUfqI21KiVhIJ%2b037HY85jgm2HEoRRQnBspoCFO> (accessed 4 February 2014).

⁸ Committee against Torture, Concluding observations on the combined fifth and sixth periodic reports of Portugal, 23 December 2013 (CAT/C/PRT/CO/5-6), paragraph 11 (a), available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsvQVdNRtaN7IpelGqXma5IWbFlgQVEq26IDSUjGxL8HMztcuEw05F1Xa1U0zb3IVtX%2bWg7XOn6ADtf6zhbu3C7tdAZmx1idVLyCzgLPIADwT> (accessed 12 February 2014).

⁹ Committee against Torture, Concluding observations on the combined fifth and sixth periodic reports of Portugal, 23 December 2013 (CAT/C/PRT/CO/5-6), paragraph 11 (a), (b) and (c), available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsvQVdNRtaN7IpelGqXma5IWbFlgQVEq26IDSUjGxL8HMztcuEw05F1Xa1U0zb3IVtX%2bWg7XOn6ADtf6zhbu3C7tdAZmx1idVLyCzgLPIADwT> (accessed 12 February 2014).

¹⁰ The ratification status of Portugal is available on the website of the Office of High Commissioner on Human Rights : http://tbinternet.ohchr.org/_layouts/TreatyBodyExternal/Treaty.aspx?CountryID=139&Lang=EN (accessed 12 March 2014).

¹¹ Committee against Torture, Concluding observations on the combined fifth and sixth periodic reports of Portugal, 23 December 2013 (CAT/C/PRT/CO/5-6), paragraph 13, available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsvQVdNRtaN7IpelGqXma5IWbFlgQVEq26IDSUjGxL8HMztcuEw05F1Xa1U0zb3IVtX%2bWg7XOn6ADtf6zhbu3C7tdAZmx1idVLyCzgLPIADwT> (accessed 12 February 2014).

¹² Council of Europe, Report by Nils Muižnieks, Commissioner for Human Rights of the Council of Europe, following his visit to Portugal from 7 to 9 May 2012, 10 July 2012 [CommDH(2012)22], available at: <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2134231&SecMode=1&DocId=1919090&Usage=2> (accessed 13 March 2014).

¹³ Committee on Economic, Social and Cultural Rights, List of issues in relation to the fourth periodic report of Portugal, 18 December 2013 (E/C.12/PRT/Q/4), Article 2, paragraph 2- Non-discrimination (para. 5), Article 6 – The right to work (para. 12), Article 9 – The right to Social Security (para. 16) and Article 11- The right to an adequate standard of living (para. 22), available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=4sIQ6QSmIBEDzFEovLCuWONfjzXH%2bfpLhWA M98g4Amfjmrz5%2bv9lvoEfBwWjBblcb%2bNmD3tlvU2VNOH5loOBGpAmYAtsL6S78StHk6abKoahfuCVLSzEN gqOG5IJQdV> (accessed 12 March 2014).

¹⁴ The International Covenant on Economic, Social and Cultural Rights is available here: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CESCR.aspx> (accessed 10 March 2014).

¹⁵ Committee on Economic, Social and Cultural Rights, General Comment N° 3: The Nature of States Parties' obligations (Art. 2, Para. 1, of the Covenant), 14 December 1990 (E/1991/23), available at: <http://www.refworld.org/docid/4538838e10.html> (accessed 13 March 2014).

¹⁶ International Commission of Jurists (ICJ), Maastricht Guidelines on Violations of Economic, Social and Cultural Rights, 26 January 1997, available at <http://www.refworld.org/docid/48abd5730.html> (accessed 1 April 2014). See also UN Commission on Human Rights, Note verbal dated 86/12/05 from the Permanent Mission of the Netherlands to the United Nations Office at Geneva addressed to the Centre for Human Rights ("Limburg Principles"), 8 January 1987 (E/CN.4/1987/17), available at: <http://www.refworld.org/docid/48abd5790.html> (accessed 13 April 2014).

¹⁷ Council of Europe, Safeguarding human rights in times of economic crisis, Issue Paper Published by the Commissioner for Human Rights, November 2013, available at: <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2429572&SecMode=1&DocId=2099360&Usage=2> (accessed 20 March 2014).

¹⁸ The Optional Protocol to the International Covenant on Economic, Social and Cultural Rights is available here: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/OPCESCR.aspx> (accessed 1 February 2014).

¹⁹ Committee on Economic, Social and Cultural Rights, An evaluation of the obligation to take steps to the "Maximum of Available Resources" under an Optional Protocol to the Covenant, 10 May 2007 (E/C.12/2007/1), available at: http://www2.ohchr.org/english/bodies/cescr/docs/e_c_12_2007_1.pdf (accessed 10 January 2014). See also footnote 16 for the Maastricht Guidelines and the Limburg Principles, as set out by General Comment 3 of the Committee on Economic, Social and Cultural Rights (footnote 15).

²⁰ Council of Europe, Report by Nils Muižnieks, Commissioner for Human Rights of the Council of Europe, following his visit to Portugal from 7 to 9 May 2012, 10 July 2012 [CommDH(2012)22], available at: <https://wcd.coe.int/com.instranet.InstraServlet?command=com.instranet.CmdBlobGet&InstranetImage=2134231&SecMode=1&DocId=1919090&Usage=2> (accessed 13 March 2014).

²¹ Discrimination is "any distinction, exclusion, restriction or preference which is based on any ground such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status, and which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise by all persons, on an equal footing, of all rights and freedoms." Human Rights Committee, General Comment no. 18: non-discrimination, paragraph 7

²² The International Convention on the Elimination of All Forms of Racial Discrimination, (Art. 4) is available here: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx> (accessed 10 January 2014).

²³ For instance Article 2, n°1 d) of the International Convention on the Elimination of All Forms of Racial

Discrimination (ICERD) states that “Each State Party shall prohibit and bring to an end, by all appropriate means, including legislation as required by circumstances, racial discrimination by any persons, group or organization.”, available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CERD.aspx> (accessed 10 January 2014).

²⁴ See, for example, the European Commission against Racism and Intolerance (ECRI), General Policy Recommendation No. 11 on Combating Racism and Racial Discrimination in Policing, 29 June 2007 [CRI(2007)39], paragraphs 11-14, available at: http://www.coe.int/t/dlapil/codexter/Source/ECRI_Recommendation_11_2007_EN.pdf (accessed 12 December 2013).

²⁵ Council of Europe, Convention for the Protection of Human Rights and Fundamental Freedoms as amended by Protocols n°11 and 14, 4 November 1950, available at: <http://www.conventions.coe.int/Treaty/en/Treaties/Html/005.htm> (accessed 3 January 2014).

²⁶ See the case-law of the European Court of Human Rights : Nachova and Others v Bulgaria, Applications nos. 43577/98 and 43579/98, 6 July 2005, Stoica v Romania, Application no.42722/02, 4 March 2008, Šečić v Croatia, Application no. 40116/02, 31 May 2007, Abdu v Bulgaria, Application no. 26827/08, 11 March 2014.

²⁷ European Commission against Racism and Intolerance (ECRI), Report on Portugal (fourth monitoring cycle), 21 March 2013 [CRI(2013)20], page 8, available at: <http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Portugal/PRT-CbC-IV-2013-020-ENG.pdf> (accessed 8 January 2014).

²⁸ Human Rights Council, Report of the Working Group of Experts on People of African Descent on its eleventh session Addendum, Mission to Portugal, 13 August 2012 (A/HRC/21/60/Add.1), paragraphs 70, 71, and 77 (c), available at: http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session21/A-HRC-21-60-Add1_en.pdf (accessed 25 July 2013).

²⁹ European Commission against Racism and Intolerance (ECRI), Report on Portugal (fourth monitoring cycle), 21 March 2013 [CRI(2013)20], page 54, available at: <http://www.coe.int/t/dghl/monitoring/ecri/Country-by-country/Portugal/PRT-CbC-IV-2013-020-ENG.pdf> (accessed 8 January 2014).

³⁰ Council of Ministers Resolution n° 25/2013 approved National Roma Communities Integration Strategy 2013-2020, available at: <http://www.acidi.gov.pt/cfn/532c521f57fd6/live/Estrat%C3%A9gia+Nacional+para+a+Integra%C3%A7%C3%A3o+das+Comunidades+Ciganas+-+Ingl%C3%AAs> (accessed 10 April 2014). See also European Commission, The European Union and Roma – Factsheet Portugal, 4 April 2014, available at: http://ec.europa.eu/justice/discrimination/files/roma_country_factsheets_2014/portugal_en.pdf (accessed 12 April 2014).

³¹ Human Rights Committee, Concluding observations of the 4th periodic report of Portugal, adopted by the Committee at its 106th session, 23 November 2012 (CCPR/C/PRT/CO/4), paragraph 5, available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhshYSuxMUifRly90VnAxQecERkrhw0HNaBEmOMlrYgBfJOM1a4dzXWg2mAMGYzi8shK4CQxUfgl21KiVhIJ%2b037HY85igm2HEoRRQnBspoCFO> (accessed 4 February 2014).

³² Committee against Torture, Concluding observations on the combined fifth and sixth periodic reports of Portugal, 23 December 2013 (CAT/C/PRT/CO/5-6), paragraph 18, available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsvQVdNRtaN7IpelGqXma5IWbFlgQVEq26IDSUjGxL8HMztcuEw05F1Xa1U0zb3IVtX%2bWg7XOn6ADtf6zhbu3C7tdAZmx1idVLyCzgLPIADwT> (accessed 12 February 2014).

³³ Committee against Torture, Concluding observations on the combined fifth and sixth periodic reports of Portugal, 23 December 2013 (CAT/C/PRT/CO/5-6), paragraph 18, available at:

<http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsVQVdNRtaN7IpeIGqXma5IWbFlgQVEq26IDSUjGxL8HMztcuEw05F1Xa1U0zb3IVtX%2bWg7X0n6ADtf6zhbu3C7tdAZmx1idVLyCZqLPIADwT> (accessed 12 February 2014).

³⁴ Law 9/2010 of 31 May 2010, allowing for civil marriage of same sex couples, can be seen here: <http://dre.pt/pdf1sdip/2010/05/10500/0185301853.pdf> (in Portuguese, accessed 10 April 2014).

³⁵ Under Article 3 of Law 9/2010 of 31 May 2010, any form of adoption, including second-parent adoption, is not accessible to married same-sex couples.

³⁶ See, for example, Human Rights Committee, *Toonen v. Australia*, Views, Communication No. 488/1992, U.N. Doc. CCPR/C/50/D/488/1992 (1994) paragraph 8.7; Human Rights Committee, *Young v. Australia*, Views, Communication No. 941/2000, U.N. Doc. CCPR/C/78/D/2000 (2003) paragraph 10.4; Human Rights Committee, 105th sess., *Concluding Observations: Armenia*, U.N. Doc. CCPR/C/ARM/CO/2 (advance version) (2012) paragraph 10; Human Rights Committee, 105th sess., *Concluding Observations: Kenya*, U.N. Doc. CCPR/C/KEN/CO/3 (advance version) (2012) paragraphs 8-9; Human Rights Committee, 105th sess., *Concluding Observations: Lithuania*, U.N. Doc. CCPR/C/LTU/CO/3 (advance version) (2012) paragraph 8; Human Rights Committee, 105th sess., *Concluding Observations: Maldives*, U.N. Doc. CCPR/C/MDV/CO/1 (advance version) (2012) paragraph 8; Human Rights Committee, 103d sess., *Concluding Observations: Jamaica*, U.N. Doc. CCPR/C/JAM/CO/3 (2011) paragraphs 8-9; Human Rights Committee, 103d sess., *Concluding Observations: Malawi*, U.N. Doc. CCPR/C/MWI/CO/1 (2011) paragraph 7; Human Rights Committee, 100th sess., *Concluding Observations: Poland*, U.N. Doc. CCPR/C/POL/CO/6 (2010) paragraphs 5, 8; Human Rights Committee, 83d sess., *Concluding Observations: Kenya*, U.N. Doc. CCPR/CO/83/KEN (2005) paragraph 27; Human Rights Committee, 83d sess., *Concluding Observations: Greece*, U.N. Doc. CCPR/CO/83/GRC (2005), paragraphs 5, 19; Human Rights Committee, 82d sess., *Concluding Observations: Poland*, U.N. Doc. CCPR/CO/82/POL (2004) paragraphs 5, 18; Human Rights Committee, 81st sess., *Concluding Observations: Namibia*, U.N. Doc. CCPR/CO/81/NAM (2004) paragraph 22; Human Rights Committee, 79th sess., *Concluding Observations: Philippines*, U.N. Doc. CCPR/CO/79/PHL (2003) paragraph 18; Human Rights Committee, 78th sess., *Concluding Observations: El Salvador*, U.N. Doc. CCPR/CO/78/SLV (2003) paragraph 16; Committee on Economic, Social and Cultural Rights, 34th sess., *Concluding Observations: China*, U.N. Doc. E/C.12/1/Add.107 (2005) paragraphs 73, 78(a) (Hong Kong Special Administrative Region); Committee on Economic, Social and Cultural Rights, 28th sess., *Concluding Observations: Trinidad and Tobago*, U.N. Doc. E/C.12/1/Add.80 (2002) paragraph 14; Committee on Economic, Social and Cultural Rights, 27th sess., *Concluding Observations: Sweden*, U.N. Doc. E/C.12/1/Add.70 (2001) paragraph 8; Committee against Torture, 33d sess., *Concluding Observations: Argentina*, U.N. Doc. CAT/C/CR/33/1 (2004) paragraph 6(g); Committee against Torture, 29th sess., *Concluding Observations: Egypt*, U.N. Doc. CAT/C/CR/29/4 (2002) paragraphs 5(e), 6(k); Committee against Torture, 29th sess., *Concluding Observations: Venezuela*, U.N. Doc. CAT/C/CR/29/2 (2002) paragraph 10(d); Committee on the Rights of the Child, 49th sess., *Concluding Observations: United Kingdom of Great Britain and Northern Ireland*, U.N. Doc. CRC/C/GBR/CO/4 (2008) paragraphs 24, 25(b).

³⁷ The Constitution of the Portuguese Republic, Seventh Revision [2005], Article 13, is available here: http://app.parlamento.pt/site_antigo/ingles/cons_leg/Constitution_VII_revisao_definitive.pdf (accessed 13 January 2014).

³⁸ The International Covenant on Civil and Political Rights is available here: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx> (accessed 4 March 2014).

³⁹ Council of Europe, Convention for the Protection of Human Rights and Fundamental Freedoms as amended by Protocols n°11 and 14, 4 November 1950, available at: <http://www.conventions.coe.int/Treaty/en/Treaties/Html/005.htm> (accessed 3 January 2014).

⁴⁰ The International Justice resource Centre website post from 10 February 2013 is available at: http://www.ijrcenter.org/2013/02/20/in-x-and-others-v-austria-ecthr-finds-discriminatory-restriction-on-same-sex-couple-adoption-violates-convention/?subscribe=success#blog_subscription-2 (accessed 18 December 2013).

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⁴¹ European Court of Human Rights, *X and Others v. Austria* (application no. 19010/ 07, decision from 19 February 2013), available at [http://hudoc.echr.coe.int/sites/eng-press/pages/search.aspx?i=001-116735#{"itemid":\["001-116735"\]}](http://hudoc.echr.coe.int/sites/eng-press/pages/search.aspx?i=001-116735#{) (accessed 17 December 2013).

⁴² See report by *Reuters U.S. Edition*, “Gay Couples win limited adoption rights”, 17 May 2013, available at: <http://www.reuters.com/article/2013/05/17/us-portugal-gayadoption-idUSBRE94G0KV20130517> (accessed 10 April 2014).

⁴³ See report by *Global Post* “ Portugal rejects gay partner adoption law”, March 3 2014, available at: <http://www.globalpost.com/dispatch/news/afp/140314/portugal-rejects-gay-partner-adoption-law> (accessed 20 March 2014).

⁴⁴ Committee against Torture, Concluding observations on the combined fifth and sixth periodic reports of Portugal, 23 December 2013 (CAT/C/PRT/CO/5-6), paragraph 14, available at: <http://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2fPPRiCAqhKb7yhsVQVdNRtaN7IpelGqXma5IWbFlgQVEq26IDSUjGxL8HMztcuEw05F1Xa1U0zb3IVtX%2bWg7XOn6ADtf6zhbu3C7tdAZmx1idVLyCzqLPIADwT> (accessed 12 February 2014).

⁴⁵ The new asylum law (alteration to previous asylum Law nº 27/2008) approved by Parliamentary Decree Nº 214/XII is available at: <http://app.parlamento.pt/webutils/docs/doc.pdf?path=6148523063446f764c3246795a5868774d546f334e7a67774c336470626d526c59334a6c6447397a4c31684a5353396b5a574d794d54517457456c4a4c6d527659773d3d&fich=dec214-XII.doc&Inline=true> (in Portuguese, accessed 23 March 2014) .

⁴⁶ UN High Commissioner for Refugees (UNHCR), Guidelines on the Applicable Criteria and Standards relating to the Detention of Asylum-Seekers and Alternatives to Detention, 2012, available at: <http://www.refworld.org/docid/503489533b8.html> (accessed 9 April 2014).

⁴⁷ The previous Asylum Law (Lay 27/2008 of 30 June) is available at: <http://www.dre.pt/pdf1s/2008/06/12400/0400304018.pdf> (in Portuguese, accessed 28 October 2013).

⁴⁸ According to the EU Directives at stake there was no obligation for Portugal as a Member State to go against its existent more favourable national law. See also EU Directive 2011/95/EU, page 10, paragraph 14 available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2011:337:0009:0026:EN:PDF> (accessed 18 December 2013). EU Directive 2013/33/EU, Article 4 is available at: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:180:0096:0116:EN:PDF> (accessed 18 December 2013) and Directive 2013/32/EU, paragraph 14, page 61 is available at: <http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32013L0032&from=EN> (accessed 18 December 2013).

⁴⁹ The new Sectorial Plans from the Portuguese Commission on Gender Equality are available at: <http://dre.pt/pdf1sdip/2013/12/25300/0703607049.pdf> (in Portuguese, accessed 28 March 2014).

⁵⁰ Council of Ministers Resolution nº 25/2013 approved National Roma Communities Integration Strategy 2013-2020, available at: http://www.acidi.gov.pt/_cfn/532c521f57fd6/live/Estrat%C3%A9gia+Nacional+para+a+Integra%C3%A7%C3%A3o+das+Comunidades+Ciganas+-+Ingl%C3%AAs (accessed 10 April 2014). See also European Commission, The European Union and Roma – Factsheet Portugal, 4 April 2014, available at: http://ec.europa.eu/justice/discrimination/files/roma_country_factsheets_2014/portugal_en.pdf (accessed 12 April 2014).

⁵¹ The Vienna Declaration and Programme of Action, 25 June 1993, is available at: <http://www.ohchr.org/en/professionalinterest/pages/vienna.aspx> (accessed 14 January 2014).

⁵² The Principles relating to the Status of National Institutions (Paris Principles), Annex to UN General

Assembly Resolution 48/134 of 20 December 1993, available at: <http://www.ohchr.org/EN/ProfessionalInterest/Pages/StatusOfNationalInstitutions.aspx> (accessed 14 January 2014).