

1. Template of the Statement of Compliance

The following document should be completed by the applicant NHRI as part of the accreditation application. It should be completed using references to primary sources (e.g. constitution, law, decree, reports) in order to provide the Sub-Committee with essential background information on the NHRI. It is essential that the NHRI substantiate each statement made by reference to its enabling instrument(s) or official reports. Applicants are kindly requested to clearly indicate articles and sections of primary sources they refer to (i.e. article, paragraph, and page).

STATEMENT OF COMPLIANCE WITH THE PARIS PRINCIPLES OF THE PORTUGUESE OMBUDSMAN - [03.07.2017] -

Annexes:

1. Constitution (PT/EN)
2. Statute of the Ombudsman (PT/EN)
3. Organic Law of the Ombudsman (PT)
4. Organizational chart (EN)
5. Budget 2012-2017 (PT)
6. Ombudsman's staff chart (EN)
7. Annual Report to the Parliament 2016 (PT/EN)
8. Annual Report to the Parliament 2015 (PT/EN)
9. Parliament's Rules of Procedure
10. Thematic reports, *Federacion Iberoamericana del Ombudsman* Portuguese contributions: Right to water (2015); Transparency and public information (2015); Poverty (2016) – (PT)
11. Thematic report: “The National Preventive Mechanism and the educational centres” (EN)
12. Thematic report on the penitentiary system – visits carried out by the Ombudsman (PT)
13. Human rights promotion resources - flyers: The Ombudsman as a defender and promoter of fundamental rights (PT), The Ombudsman in the promotion and protection of immigrant's rights (PT/ENG/FR/others), The Ombudsman as NPM (PT); Radio, TV and video spots (PT); Post Office Stamp and commemorative coin (PT)
14. Contributions, questionnaires and other interactions with human rights bodies - examples (EN)
15. Interventions in conferences, seminars and other events (PT/EN)
16. Evocative texts of international days (PT/EN)
17. The Ombudsman newsletter (EN)
18. Media - interviews and op-ed articles in newspapers (PT)

CHARACTER OF THE NHRI

1. ESTABLISHMENT

The Paris Principles state that an institution's mandate shall be clearly set forth in a constitutional or legislative text (...).

The GANHRI has adopted the following General Observation on the Establishment of NHRIs: "An NHRI must be established in a constitutional or legal text. Creation by an instrument of the Executive is not adequate to ensure permanency and independence"

Discuss the instruments that establish the NHRI. Please explain:

- When and by what enabling law the NHRI was established;
- The legal status is of the NHRI, i.e. whether it has been established by legislation or if it is entrenched in the Constitution;
- If there is any other mechanism that gives the NHRI its legitimacy;
- The geographic jurisdiction of the NHRI.

The Portuguese Ombudsman (*Provedor de Justiça*) was established in Portugal in 1975 following the movement of constitutional rupture led by the revolution of 25 April 1974. Hence, the institution arose as an integral part of the process of democratic transition in the country, aimed at embracing the rule of law and safeguarding human rights and fundamental freedoms.

In view of these historical circumstances, the Portuguese Ombudsman was first established by Decree-Law 212/75, of 21 April 1975, but immediately after gained constitutional status, as the institution was enshrined in the Constitution of the Portuguese Republic of 1976 (hereafter the "Constitution")¹, in former Article 24 (currently Article 23).

According to the Constitution (see Article 23 (1)) citizens have the right to complain to the Ombudsman against actions or omissions by the public authorities; the Ombudsman shall deal with these complaints with no binding powers, addressing the competent bodies the necessary recommendations in order to prevent and redress injustices.

This provision is included in Part I of the Constitution, on "Fundamental Rights and Duties", and, more precisely, in its Title I, regarding "General Principles", whose provisions are key to the constitutional protection system of fundamental rights. Accordingly, the Ombudsman is rooted in the Constitution, since its inception, as national human rights institution. Moreover, the fundamental right to complain to the Ombudsman benefits from a strengthened protection constitutional regime (see Articles 17, 18, 19, 21, 22, 165 (1) (b), 272 (3), and 288 (d) of the Constitution). This means, inter alia, that both the right to complain to the Ombudsman and the Ombudsman institution cannot be eliminated by the legislator, even by way of constitutional revision (above-mentioned Article 288 (d)).

¹ An English consolidated version of the Portuguese Constitution is available at the Parliament's website: <http://www.en.parlamento.pt/Legislation/CRP/Constitution7th.pdf>.

Pursuant to this constitutional status, the Portuguese Ombudsman is an independent State body (Article 23 (3) of the Constitution). Hence, the approval of its Statute is a matter of the exclusive competence of the Assembly of the Republic (hereafter the “Parliament”, consisting in our country of a single Chamber), as required by Article 164 (m) of the Constitution.

The post constitutional Statute of the Portuguese Ombudsman was first laid down by Law 81/77, of 22 November 1977. Currently it is contained in Law 9/91, of 9 April 1991, as amended by Law 30/96, of 14 August 1996, Law 52-A/2005, of 10 October 2005, and Law 17/2013, of 18 February 2013 (henceforth the “Statute”)².

Article 1 (1) of the Statute establishes that, pursuant to the Constitution, the Ombudsman is a State body elected by the Parliament, whose main role is to protect and promote the rights, freedoms, guarantees and legitimate interests of citizens, ensuring, by informal means, the justice and legality of the exercise of public powers.

In February 2012, the Ombudsman recommended to the Parliament that specific amendments should be introduced in the Statute, to take into account, besides other clarifications and regulation on organizational aspects, the need to emphasize and explicit the legal basis for the institution's role as National Human Rights Institution (NHRI), as well as the tasks performed as a result of the Ombudsman interaction with the international human rights system or of the provisions of international human rights instruments by which Portugal is bound – Recommendation 3/B/2012 (see *Report to the Parliament 2012: Summary*, p. 8)³. This recommendation resulted in the adoption of the above-mentioned Law 17/2013 (third amendment to the Statute) – see in particular the new paragraphs 2 and 3 of Article 1 of the Statute.

By virtue of his/her office, the Ombudsman is a member of the Council of State, the consultation body of the President of the Republic (Article 142 (d) of the Constitution).

In view of the Portuguese Ombudsman status as NHRI and as for protection of human rights during states of exception is concerned, it should be mentioned that, under Article 18 (2) of the State of Siege and State of Emergency Act (Law 44/86, of 30 September 1986⁴), both the Public Prosecution Service and the Office of the Portuguese Ombudsman shall remain in permanent session for the full exercise of their protection powers regarding the democratic rule of law and citizens’ rights.

² The latest consolidated version, in English, of the Statute of the Portuguese Ombudsman is available at the institution’s website:

http://www.provedor-jus.pt/site/public/archive/doc/Ombudsman_s_Statute.pdf.

³ [Http://www.provedor-jus.pt/site/public/archive/doc/RES_Annual_Report2012.pdf](http://www.provedor-jus.pt/site/public/archive/doc/RES_Annual_Report2012.pdf). The full text, in Portuguese, of Recommendation 3/B/2012, is available at: http://www.provedor-jus.pt/site/public/archive/doc/Rec_3B2012.pdf.

⁴ Last amended by Organic Law 1/2012, of 11 May 2012.

The geographic jurisdiction of the Portuguese Ombudsman covers the entire national territory, comprising Portugal mainland and the Autonomous Regions of Azores and of Madeira. The Constitutional Court (Decision 403/2009) deemed unconstitutional the creation of regional Ombudsman in Azores (violation of Article 23 of the Constitution). The reasoning of this judgment was based upon the uniqueness of the constitutional role of the Ombudsman.

2. INDEPENDENCE

Independence is a fundamental pillar of the Paris Principles. All the provisions in the section "Composition and guarantees of independence and pluralism" aim to ensure independence through composition, representation, infrastructure, stable mandate of the NHRI.

*The GANHRI has adopted the following General Observation on the **administrative regulation** of NHRIs: "The classification of an NHRI as a public body has important implications for the regulation of its accountability, funding, and reporting arrangements. In cases where the administration and expenditure of public funds by an NHRI is regulated by the Government, such regulation must not compromise the NHRI's ability to perform its role independently and effectively. For this reason, it is important that the relationship between the Government and the NHRI be clearly defined".*

To preserve the independence of members, the GANHRI has strongly recommended that "provisions be included in national law to protect legal liability for actions undertaken in the official capacity of the NHRI".

Discuss the mechanisms that guarantee the independence of the NHRI. Please explain:

- The nature of the Institution's accountability (i.e. whether the NHRI is accountable to parliament, a ministry, government department, head of state, etc.);
- Whether or not the NHRI receives instruction from the government;
- By what means conflicts of interest are avoided;
- Whether or not members incur legal liability for actions taken in their official capacity.

According to the Constitution (Article 23 (3)) and the Statute (Article 1 (1)), the Ombudsman is an independent State body elected by the Parliament. Moreover, the Statute explicitly reaffirms and guarantees the complete independence of the Ombudsman in the performance of his/her duties (see Article 1 (4), and Article 7 of the Statute).

In this framework, the Portuguese Ombudsman institution is a fully independent State body that does not assimilate to any of the typical State powers – legislative, executive or judicial.⁵

⁵ As expressed by Professor Diogo Freitas do Amaral, former President of the General Assembly of the United Nations, the Ombudsman can be seen as an "independent constitutional authority", "outside and beyond the legislative, executive and judicial powers". In «Limites Jurídicos, Políticos e Éticos da Actuação do "Ombudsman"», Provedor de Justiça, *Democracia e Direitos Humanos no Século XXI*, Lisboa, 2003, p. 48-49 (available at: <http://www.provedor-jus.pt/site/public/archive/doc/DemoDirHumanos.pdf>).

Indeed, even as for the relationship between the Ombudsman and the Parliament, it should be underlined that, notwithstanding the fact that the establishment of the institution in Portugal was inspired by the Scandinavian model of the parliamentary Ombudsman (for example, the Portuguese office holder is elected by the Parliament and each year addresses a report to the Parliament on his/her work⁶), the Portuguese Ombudsman does not incorporate the legislative power. By other words, the Ombudsman is neither a parliamentary body, nor an ancillary body to the Parliament. Hence, the Ombudsman institution enjoys full independence.

This also means that the Ombudsman cannot receive instructions from any other body, institution or entity, including the Government. In this respect it should be noted that any political officeholder who impedes or constraints the free performance of the Ombudsman's duties commits a crime punished with one to five years imprisonment, under the terms provided for in Article 10 (2) of the Political Officeholders Criminal Responsibility Act (Law 34/87, of 16 July 1987⁷).

The practice confirms the complete respect, namely by public authorities, regarding the independence and integrity of the Ombudsman institution in the performance of its duties.

As far as the avoidance of conflict of interests is concerned, one should first mention that Article 5 (2) of the Statute determines that the appointment as Ombudsman may only fall upon a citizen who, besides meeting the conditions required for being elected a Member of the Parliament (MP), enjoys a well-established reputation of integrity and independence. Moreover, Article 11 of the Statute stipulates that the incumbent shall be subject to the same incompatibilities that apply to court of law judges in office (paragraph 1) and prohibits him/her from holding any position within the bodies of political parties or associations, as well as from engaging in any public political party activities (paragraph 2).

The Ombudsman shall not be civilly or criminally held liable for his/her recommendations, remarks or opinions nor for any other act carried out in the performance of his/her duties, therefore holding immunity against any charges or proceedings relating to the discharge of his/her constitutional and legal responsibilities (see Article 8 (1) of the Statute). In addition, the Statute stipulates that the Ombudsman's acts in the discharge of these responsibilities may not be appealed and they may only be the object of a complaint addressed to the Ombudsman him/herself (see Article 36).

The Portuguese Ombudsman, besides established at constitutional level and its Statute contained in an act of the Parliament, is endowed with a set of other important personal, institutional, functional and organisational guarantees, provided for by the law and that cement and strengthen the independence and autonomy of the institution, with particular regard to the following:

⁶ As for the latter, see Article 23 (1) of the Statute.

⁷ Last amended by Law 30/2015, of 22 April of 2015.

- According to Article 5 (1) of the Statute, a demanding qualified majority of votes (two thirds) in the Parliament is required for the election of the Ombudsman.
- The Constitution (Article 23 (3)) refers to the law the determination of the length of the term of office and, accordingly, Article 6 (1) of the Statute stipulates that the Ombudsman is elected for a period of four years and may be re-elected only once for a similar period of time. In this context, it should be also noted that the term of office of the Ombudsman does not have to run synchronously with the duration of the legislature.
- Article 7 of the Statute restates that the Ombudsman shall be independent, as well as guarantees the holder's irremovability. Indeed, his/her duties shall not be discontinued before the end of his/her mandate, save where otherwise established by the Statute itself. Pursuant to Article 15 (1) of the Statute, the Ombudsman's duties shall only cease before the four year term in case of (i) death or permanent physical disability, (ii) loss of the requirements for being elected a MP, (iii) supervening incompatibility or (iv) resignation.
- According to Articles 40 to 43 of the Statute, the Portuguese Ombudsman is granted complete autonomy over issues relating to budget, staff and premises.

Recognition of the independence, which is at the core of the Ombudsman institution, is further entrenched in the law, as the Ombudsman is taken into account in the framework of other institutions, as hereinafter described (and following a chronological order of the legislation in force):

- Conscientious Objection National Commission (Law 7/92, of 12 May 1992⁸) – among the respective members, one is a citizen of recognized standing, who is designated by the Ombudsman (Article 28 (2), (b));
- Portuguese National Human Rights Committee (Resolution of Council of Ministers 27/2010, of 8 of April 2010) – Ombudsman's representatives may take part in the work of this Committee in consideration of the role of the Ombudsman as NHRI (paragraph 6);
- National Mechanism for Monitoring and Implementation of the UN Convention on the Rights of Persons with Disabilities (Resolution of Council of Ministers 68/2014, of 21 November 2014) – among the respective members, one is a representative of the Ombudsman in consideration of its role as NHRI;
- National Commission for the Promotion of the Rights and the Protection of Children and Young People (Decree-Law 159/2015, of 10 August 2015) – the respective National Council, in its extended composition, includes a person appointed by the Ombudsman (Article 8 (1) (i)).

⁸ Amended by Law 138/99, of 28 August 1999.

3. COMPOSITION, APPOINTMENT PROCESS, TENURE

3.1 Composition

The Paris Principles state that “the composition of the national institution and the appointment of its members, whether by means of an election or otherwise, shall be established in accordance with a procedure which affords all necessary guarantees to ensure the pluralist representation of the social forces (of civilian society) involved in the promotion and protection of human rights, particularly by powers which will enable effective cooperation to be established with, or through the presence of, representatives of:

- (a) Non-governmental organizations responsible for human rights and efforts to combat racial discrimination, trade unions, concerned social and professional organizations, for example, associations of lawyers, doctors, journalists and eminent scientists;*
- (b) Trends in philosophical or religious thought;*
- (c) Universities and qualified experts;*
- (d) Parliament;*
- (e) Government departments (if these are included, their representatives should participate in the deliberations only in an advisory capacity).*

*The GANHRI has adopted the following **General Observations on the composition and pluralism of NHRIs**:*

- **Ensuring pluralism:** The Sub-Committee notes there are diverse models of ensuring the requirement of pluralism set out in the Paris Principles. However, the Sub-Committee emphasises the importance of National Institutions to maintain consistent relationships with civil society and notes that this will be taken into consideration in the assessment of accreditation applications. The Sub-Committee observes that there are different ways in which pluralism may be achieved through the composition of the National Institution, for example:*

- 1. Members of the governing body represent different segments of society as referred to in the Paris Principles;*
- 2. Pluralism through the appointment procedures of the governing body of the National Institution, for example, where diverse societal groups suggest or recommend candidates;*
- 3. Pluralism through procedures enabling effective cooperation with diverse societal groups, for example advisory committees, networks, consultations or public forums; or*
- 4. Pluralism through diverse staff representing the different societal groups within the society.*

The Sub-Committee further emphasises that the principle of pluralism includes ensuring the meaningful participation of women in the National Institution.

- **Government representatives on National Institutions:** The Sub-Committee understands that the Paris Principles require that Government representatives on governing or advisory bodies of National Institutions do not have decision making or voting capacity.*

Discuss how your NHRI meets the requirement of pluralism. Please explain:

- Whether your founding law requires a diverse composition of members⁹;
- Which authority/group may nominate candidates for membership;
- The composition of the NHRI's membership, i.e. what positions are created by the enacting law and what positions are currently filled and are in operation (Please include heads and deputy heads of the organization);
- How the groups mentioned at the letters a-e as above are represented;
- Representation of women;
- Representation of ethnic or minority groups (e.g. indigenous, religious minorities, etc);
- Representation of particular groups (e.g. people with a disability, etc);

As an Ombudsman-type institution, the Portuguese Ombudsman is a unipersonal State body.

Regarding nominations for the office, it should be recalled that the Portuguese Ombudsman is elected by the Parliament – the assembly that represents all the citizens –, by a qualified majority of votes. For their part, the MPs are elected from lists that political parties or coalitions of political parties submitted in each constituency, whilst these lists may include citizens who are not registered members of the parties concerned (Article 151 (1) of the Constitution). In any case, MPs represent the whole country and not the constituencies for which they are elected (Article 152 (2) of the Constitution). Moreover, they shall exercise their mandates freely and shall be guaranteed the conditions needed to exercise their functions effectively, particularly those needed for the indispensable contact with the voting citizens and for ensuring that the latter are regularly kept informed (Article 155 (1) of the Constitution).

In the context described above, relating to the exercise of the function of MP, and according to the Rules of Procedure of the Assembly of the Republic (hereafter, the “Parliament’s Rules of Procedure”)¹⁰ – see Articles 255 et seq., regarding election of holders of those offices outside the Parliament whose appointment falls within the competence of the latter (such is the case of the Ombudsman) –, nominations of candidates are submitted by a minimum of ten and a maximum of twenty MPs. The subsequent election procedure is further detailed in section 3.2.

According to Article 16 (1) of the Statute, the Ombudsman may, at any time, appoint and dismiss two Deputy Ombudsmen, who are chosen by the Ombudsman from among individuals holding an adequate university degree and having a well-established reputation of integrity and independence. Under paragraph 2 of the same Article, the Ombudsman may delegate to one of his/her Deputies the duties relating to the rights of the child, so that this task is carried out on specialisation.

Moreover (Article 16 (3) of the Statute), the Ombudsman may delegate certain powers to the Deputy Ombudsmen, with the exception of those falling within

⁹ Members refers to those individuals that are appointed or elected under the NHRI's founding law (i.e. Chair, Commissioners, Ombudsmen, Deputy Ombudsmen) and with whom the NHRI's functions are vested.

¹⁰ In force since 1 September 2007 (with subsequent rectification as well as amendments introduced in 2010 and 2017). An English consolidated version of the Parliament's Rules of Procedure in force is available at: http://www.en.parlamento.pt/Legislation/Rules_of_Procedure.pdf.

his/her exclusive competence (such as the power of recommendation or the power to initiate legal proceedings before the Constitutional Court). Those powers that may be delegated to the Deputies include:

- Carrying out inspection visits, announced or not;
- Making all the necessary investigations and inquiries;
- Seeking, in cooperation with the relevant bodies, the most appropriate solutions for the protection of the legitimate interests of citizens, as well as for the improvement of administrative action;
- Making the preliminary assessment of citizens' complaints;
- Investigating citizens' complaints;
- Hearing in advance the bodies or officials whose conduct is in question;
- Summoning and hearing any citizen;
- Closing cases;
- Referring the complainant, where applicable, to the competent body (i.e. to the body best positioned to deal with the case);
- In less serious, non-continuous, cases, addressing a critical remark to the body concerned or closing the case upon receiving explanations;
- Performing all acts concerning appointment and service situation of the staff of the Ombudsman's office and exercise disciplinary authority on that staff.

The Ombudsman may also appoint the Deputy responsible for ensuring the running of the office in case of early cessation or interruption of the Ombudsman's duties (Article 16 (3) *in fine* of the Statute). According to Article 16 (4) of the Statute, the provisions of the latter regarding incompatibilities, duty of secrecy, work-related guarantees, as well as special identification card and free pass, also apply to the Deputy Ombudsmen.

The current office holder is Professor José de Faria Costa, who took office in July 2013 (Professor Faria Costa is a Professor of Criminal Law at the Faculty of Law of the University of Coimbra and also a writer and poet). Moreover, there are currently two Deputy Ombudsmen: Mr. Jorge Jacob (original professional activity: Court of Appeal Judge) and Mr. Henrique Antunes (original professional activity: Court of Appeal Judge).

In view of the unipersonal character of the Ombudsman institution and as for relationship with civil society actors, they are an integral part of the Portuguese Ombudsman work, in all its various dimensions, including through the exercise of their right to complain and to raise issues relating to human rights, but also through other forms of collaboration, as detailed below in section 8.1. The Ombudsman also maintains collaboration with other bodies, including the Parliament, independent administrative entities and some governmental bodies as explained in section 8.2.

3.2 Selection and appointment

*The GANHRI has adopted the following **General Observations on selection and appointment**:*

- **Selection and appointment of the governing body:** *The Sub-Committee notes the critical importance of the selection and appointment process of the governing body in ensuring the pluralism and independence of the National Institution. In particular, the Sub-Committee emphasises the following factors:*
 1. *A transparent process*
 2. *Broad consultation throughout the selection and appointment process*
 3. *Advertising vacancies broadly*
 4. *Maximising the number of potential candidates from a wide range of societal groups*
 5. *Selecting members to serve in their own individual capacity rather than on behalf of the organization they represent.*

Discuss how members of the NHRI are selected and appointed. Please explain:

- The legal provisions (in your founding law or elsewhere) regarding the selection and appointment of members to the NHRI;
- The selection process and appointment procedure in practice (please indicate how publicity, transparency, broad consultation, openness to different groups of societies are enshrined in the enabling legislation and operate in practice);
- Whether and how these procedures ensure adequate representation of civil forces (e.g. civil society) involved in the promotion and protection of human rights
- Cooperation with the representatives of the groups mentioned above in 3.1;
- Membership criteria;

As already anticipated in section 3.1, the selection and appointment process of the Portuguese Ombudsman guarantees the principles of independence and of pluralism as regards the institution, in line with the Paris Principles as applied to a unipersonal type of body such as the Ombudsman.

The Portuguese Ombudsman is democratically elected by the representatives of the people in the Parliament (Articles 23 (3), and 163 (h) of the Constitution). As already mentioned, MPs keep regular contacts with their constituents.

Under Article 6 (3) of the Statute, the appointment of the Ombudsman shall take place within the last thirty days of the term of office of the incumbent Ombudsman¹¹.

Firstly, the candidate is selected in accordance with the requirements of Article 5 (2) of the Statute, as already pointed out in section 2: a citizen who meets the conditions to be elected a MP – i.e. Portuguese citizen, aged 18 or over¹² – and

¹¹ In case the Parliament has been dissolved, or is out of session, the appointment shall be made within fifteen days of the first sitting of the new Parliament or of the new session, unless an extraordinary session of Parliament session is convened for such purpose (Article 6 (4) of the Statute).

¹² See Article 150 of the Constitution and Article 4 of the Parliament's Election Act (Law 14/79, of 16 May 1979, last amended by Organic Law 10/2015, of 14 August, and available in Portuguese in: http://www.cne.pt/sites/default/files/dl/legis_lear_2015.pdf).

enjoying a well established reputation of integrity and independence. This means that the selection of the candidates takes into consideration their own individual capacity, that is to say, their individual circumstances, profile and path, offering guarantees of probity, impartiality and independence (the same applies to the Deputy Ombudsmen, as they are chosen by the Ombudsman from among individuals having a well-established reputation of integrity and independence, besides holding an adequate university degree – see previous section 3.1).

The selection procedure is carried out after a broad consultation amongst the different groups with parliamentary seat. In 2007, the new Parliament's Rules of Procedure¹³ (Article 257 (c)) introduced the rule of prior hearings of the candidates for the post of Ombudsman. These hearings are open to the media and broadcasted through the Parliament TV, which is universally accessible and free of charge through digital terrestrial television (DTT) and also through the internet.

As stipulated at the level of the Constitution (Article 163 (h)), the election requires a demanding qualified majority of votes in the Parliament: a two third majority of the MPs who are present, provided that such majority is higher than the absolute majority of the MPs in office (see also Article 5 (1) of the Statute).

If none of the candidates obtains the required number of votes, there shall be a second round of voting, solely with regard to the two candidates who received the most votes and whose nominations have not been withdrawn (Article 258 (2), of the Parliament's Rules of Procedure). Where candidates' nominations are withdrawn or, otherwise, a candidate still does not receive the required qualified majority of votes, this gives rise to a new selection and appointment procedure. A second selection and appointment procedure occurred for the election of the Ombudsman in 2000 and 2009.

In this framework, the requirement of a qualified majority of votes ought to be emphasised, as it implies, in practice, the existence of a large consensus within the Parliament for the election of the Ombudsman. By other words, in consistency with the principle of pluralism, the main political force with a parliamentary seat cannot alone ensure the election, the appointed Ombudsman necessarily arising from the vote of different groups represented in the Parliament.

In sum, the selection and appointment process respects both the independence and pluralism of the Ombudsman institution, attesting the respective holder's own capacity acting, as his/her election cannot be labelled with any particular group. It could not be otherwise, as the Portuguese Ombudsman mandate is to promote and protect all human rights of all, with particular attention to the most vulnerable citizens on account of their age, race or ethnicity, gender or disability (see Article 4 (2) of the Statute, on the Ombudsman's own-initiative power).

The Ombudsman takes up office before the President of the Parliament (Article 5 (3) of the Statute).

¹³ See above section 3.1.

3.3. Tenure

The Paris Principles state that in order to ensure a stable mandate for the members of the national institution, without which there can be no real independence, their appointment shall be effected by an official act which shall establish the specific duration of the mandate. This mandate may be renewable, provided that the pluralism of the institution's membership is ensured.

*The GANHRI has adopted the following **General Observations on membership tenure**:*

- **Full-time Members:** *Members of the NHRIs should include full-time remunerated members to:*
 1. *Ensure the independence of the NHRI free from actual or perceived conflict of interests;*
 2. *Ensure a stable mandate for the members;*
 3. *Ensure the ongoing and effective fulfilment of the mandate of the NHRI.*
- **Guarantee of tenure for members of governing bodies:** *Provisions for the dismissal of members of governing bodies in conformity with the Paris Principles should be included in the enabling laws for NHRIs.*
 1. *The dismissal or forced resignation of any member may result in a special review of the accreditation status of the NHRI;*
 2. *Dismissal should be made in strict conformity with all the substantive and procedural requirements as prescribed by law;*
 3. *Dismissal should not be allowed based on solely the discretion of appointing authorities.*

Discuss how the tenure of the NHRIs' members is ensured. Please explain:

- The terms of office of members (and if it is specified in the founding law);
- Whether members are full and/or part-time;
- Whether the members receive adequate remuneration;
- Whether the members' terms are renewable;
- The grounds and procedures for dismissal and/or resignation of a member and how they operate in practice;
- If there is an advisory body in addition to the members, and if so, please set out the membership requirements of this body.

As already anticipated in section 2, Article 23 (3) of the Constitution defers to the legislator to lay down the length of the term of office regarding the Ombudsman. Accordingly, Article 6 (1) of the Statute stipulates that the Ombudsman is elected for a period of four years and may be re-elected only once for a similar period of time.

Article 11 (1) of the Statute determines that the incumbent shall be subject to the same incompatibilities that apply to court of law judges in office, that is to say, he/she cannot engage in any public or private professional activity other than unremunerated teaching or scientific research activities in the law field, and whenever this does not affect the performance of his/her duties as Ombudsman.

Article 9 of the Statute ensures an adequate remuneration, as this provision stipulates that the Ombudsman shall have the same rights, honours, precedence,

rank, remuneration and privileges as a Minister, including those under the Statute governing Remuneration of Political Officeholders (Law 4/85, of 9 April 1985¹⁴).

Article 7 of the Statute stipulates that the Ombudsman shall be independent and irremovable: his/her duties shall not be discontinued before the end of his/her mandate, save where otherwise established by the Statute itself. Reference has already been made in section 2 above to the precise and mandatory identification of the grounds for the Ombudsman's cessation of duties before the four year term: (i) death or permanent physical disability, (ii) loss of the requirements for being elected a MP, (iii) supervening incompatibility or (iv) resignation (Article 15 of the Statute). The grounds for the Ombudsman's cessation of duties are verified by the Parliament, in accordance with its Rules of Procedure.

In practice and as for the post constitutional period of the Portuguese Ombudsman institution, cessation of duties occurred twice, in 1991¹⁵ and in 2009, in both situations on grounds of resignation. As for the last one, the Ombudsman remained in office following the end of his second four-year term, in order to comply with Article 6 (2) of the Statute, under which the Ombudsman shall remain in office until his/her successor takes office. Due to a personal extremely poor health, the Ombudsman finally decided to resign. In accordance with the procedures set out in the Statute, the Ombudsman informed the Parliament of the grounds for his waiver decision, by a letter hand-delivered to the President of the Parliament. This letter was read at the following day plenary sitting and published in the Parliament's Official Journal¹⁶.

In these situations, the institution continues its work normally. A Deputy Ombudsman remains responsible for ensuring the running of the office for that period (see Article 16 (3) of the Statute).

Under Article 15 (3) of the Statute, in case of vacancy of the office, a new Ombudsman must be appointed within the following thirty days.

Neither the Constitution nor the Statute provide for the existence of an advisory body. In any case, it should be mentioned that in 2014, while implementing the structure to support the Portuguese Ombudsman as National Preventive Mechanism (NPM) under the UN Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT), the Ombudsman emphasised a vocation of plural participation of society, with a view to benefiting, also in the realm of the relevant activities within the scope of that Optional Protocol purposes, from the experience and knowledge of a broader social representation of the community, either individually or at a collective title. This is why an Advisory Council was established for the Portuguese NPM (see below section 9).

¹⁴ As most recently amended by Law 30/2008, of 10 July 2008.

¹⁵ Waiving statement in *Diário da Assembleia da República* [Parliament's Official Journal], I Series, No. 17, 21 December 1991, p. 371 et seq.).

¹⁶ In *Diário da Assembleia da República* [Parliament's Official Journal], I Series, No. 89, 5 June 2009, p. 7 et seq.

4. ORGANIZATIONAL INFRASTRUCTURE

4.1 Infrastructure

The Paris Principles state that the national institution shall have an infrastructure which is suited to the smooth conduct of its activities, in particular adequate funding. The purpose of this funding should be to enable it to have its own staff and premises, in order to be independent of the Government and not be subject to financial control which might affect its independence.

Discuss the NHRI's infrastructure.

Please explain:

- The organisational structure of the NHRI;
- How the NHRI's infrastructure (including staff and resources) is allocated;
- How the NHRI's infrastructure allows it to function according to its mandate;
- Evidence that the NHRI is adequately resourced and staffed.

Please provide:

- An organizational chart of the NHRI's structure.

Under Article 40 of the Statute, the Portuguese Ombudsman has an office to provide technical and administrative support in the development of its mission.

Moreover, the Portuguese Ombudsman is assisted by two Deputy Ombudsmen to whom he/she can delegate certain powers (see section 3.1 above).

Under Article 10 of the Statute, the Portuguese Ombudsman has a Cabinet that provides personal and direct assistance. The Cabinet comprises the Head of Cabinet, three Advisers and four Secretaries. It may also comprise three Specialists (Article 27 (2) (3) of the Organic Law¹⁷): presently, one Press Officer, one Project Coordinator and one N-CID staff member).

Pursuant to Article 17 of the Statute, the Ombudsman is further assisted by 6 Coordinators and 40 Legal Advisers whom conduct the investigation of the cases as well as perform other activities under the scope of their specific expertise, such as human rights monitoring and reporting. The Coordinators and the Legal Advisers act under the direction of the Ombudsman and also the Deputy Ombudsmen, within the framework of their delegated powers. The Portuguese Ombudsman, its Deputies, the Coordinators and Legal Advisers are considered public authorities, according to Article 18 of the Statute.

Coordinators and Legal Advisers are divided in the following six Thematic Units, each handling cases and other tasks according to their subjects of expertise:

- a) Thematic Unit 1 – Environmental, Urban Planning and Cultural Rights;
- b) Thematic Unit 2 – Taxpayers', Consumers' and Economical Operators' Rights;

¹⁷ Decree-Law 279/93, of 11 August 1993 (as amended by Decree-Law 15/98, of 29 January 1998, Decree-Law 195/2001, of 27 June 2001, and Decree-Law 72-A/2010, of 18 June 2010).

- c) Thematic Unit 3 – Social Rights;
- d) Thematic Unit 4 – Workers’ Rights;
- e) Thematic Unit 5 – Right to Justice and Security;
- f) Thematic Unit 6 - Rights, Freedoms and Guarantees; Health, Education and Constitutionality Valuations.

The issues concerning the rights of children, the rights of elderly persons and the rights of persons with disabilities are addressed by a specialized structure – Children, Elderly Persons and Persons with Disabilities Unit, identified by the acronym N-CID, which has been in operation since 2009. The N-CID is responsible for the operation of three specialized and toll-free telephone services: the Children’s Hotline, created in 1993; the Elderly Citizens’ Hotline, created in 1999, the Persons’ with disabilities hotline, created in 2011. These three telephone lines work in close connection with the Public Relations Division. The N-CID comprises one Coordinator and three other staff members (two law graduates and one psychologist).

The Ombudsman has also two local offices in the Autonomous Regions of the Azores and Madeira with the capacity to receive complaints and to provide information regarding the Ombudsman activity and scope of intervention.

The administrative and the technical support are undertaken by the Technical and Administrative Support Services Department, headed by a Secretary-General with the assistance of a Director. The Services are divided in the following manner: Information and Public Relations Division; Documentation Division; IT Division; General Dispatches and Archive Division; Human Resources Division; and Accounting Division.

As it will be further developed under sections 4.3 and 4.4, the Portuguese Ombudsman has its own premises and budget. The budget for 2017 is €5 379 150,00 (Euros).

Within the scope of this organisational architecture, staff allocation and resources, it is possible to ensure that the Portuguese Ombudsman has the sufficient resources in order to exercise its functions and to fulfil its mission and mandate as established by the Constitution and the Law.

The organisational chart of the Portuguese Ombudsman corresponds to the one established by the Organic Law. Every organisation is susceptible of being improved and, for that reason, the Portuguese Ombudsman is always aware and attentive to new ways of enhancing its work regarding the promotion and protection of human rights.

4.2 Staffing

The Paris Principles state that the NHRIs should be able to have its own staff.

The GANHRI has adopted the following General Observation on staffing:

- **Staff of an NHRI:** *As a principle, NHRIs should be empowered to appoint their own staff.*
- **Staffing by secondment:** *In order to guarantee the independence of the NHRI, the Sub Committee notes, as a matter of good practice, the following:*
 1. *Senior level posts should not be filled with secondees;*
 2. *The number of seconded should not exceed 25% and never be more than 50% of the total workforce of the NHRI.*

Discuss the NHRI's staffing. Please explain:

- How staff of the NHRI are hired;
- If there are any limitations on the NHRI's authority to hire staff;
- Which current positions (if any) are filled by secondees;
- What percentage of the staff (including senior position) is seconded;
- Whether and how the staff reflects the principle of pluralism.

Please provide:

- A list of the staff of the NHRI or, if provided in another document, refer to the organisational chart illustrating the staffing structure of the NHRI (please indicate gender distribution).

The Portuguese Ombudsman has administrative and financial autonomy, which means, namely, having its own staff, budget and premises (Articles 40 to 43 of the Statute).

The Portuguese Ombudsman is entirely free to hire his/her staff, being only restricted by the limits of the annual budget and by the staff map that is established in the Organic Law of the Ombudsman.

As already mentioned in section 3.1, under Article 16 of the Statute, the Portuguese Ombudsman may at any time appoint and freely dismiss the two Deputy Ombudsmen.

The members of the Cabinet are also freely appointed and dismissed by the Ombudsman, as it is stated by Article 10 of the Statute. The Cabinet includes the Head of the Cabinet, the Advisers, the three Specialists and the four Secretaries.

The Coordinators and the Legal Advisers are also freely appointed and dismissed by the Ombudsman, who chooses them from amongst individuals with adequate university degree, pursuant to Article 28 of the Organic Law. Regarding their remuneration, the Coordinators are deemed as General Directors and the Legal Advisers are positioned within the higher pay stages in the civil servants' career. These provisions are intended to ensure their full independence.

All the appointments made by the Ombudsman are published in the Official Journal.

The technical and the administrative staff are hired following an open and public competition procedure.

There are no situations of secondment within the Ombudsman's staff. Some staff members are civil servants who, after the termination of their contracts with the Office of the Ombudsman, retain the possibility to go back to their original services. This situation differs from secondment because during their contracts these staff members are part of the Ombudsman's Office, are paid by the Ombudsman's budget and are also under the authority and direction (hierarchical and functional) of the Ombudsman. The original contract with the former public service is suspended. Furthermore, Article 28 (5) of the Organic Law establishes that when the choice of a Coordinator or a Legal Adviser falls upon a magistrate or a public official, their rights cannot be hindered due to not exercising their activity in their place of origin.

Staff selection complies with the principle of equality, non-discrimination and transparency, through merit based procedures, and without any form of discrimination, namely based on gender, ethnic or racial background, religion, ideology or disabilities. The Portuguese Ombudsman's staff has a diverse and plural composition.

Regarding gender distribution, out of the 101 people that work in the Ombudsman's office 73% are women and 27% are men. Women are also widely represented in very relevant positions, namely Secretary-General, Head of Cabinet, Cabinet Advisers (2 out of 3), Press Officer, Specialists (3 out of 3), Thematic Unit Coordinators (2 out of 6), Legal Advisers (30 out of 40) and two Division Directors.

4.3 Premises (accessibility)

The Paris Principles state that the NHRIs should be able to have its own (...) premises and that, within the framework of its operation, the national institution shall (...) set up local or regional sections to assist it in discharging its functions.

Discuss the NHRI's premises. Please explain:

- The presentation of the main premises of your organization;
- Whether the NHRI has local or regional offices;
- If so, how local and regional offices communicate with the main office;
- How the public can access the NHRI's offices;
- Whether the NHRI's offices are accessible to people with disabilities;

Please also describe procedures and mechanisms of the NHRI to ensure accessibility to the broader population and in particular, to people who are exposed to human rights violations or non-fulfilment of their rights, i.e. women, ethnic, linguistic, religious or other minorities, non-nationals and persons with disability, as well as the poor.

According to Article 40 (3) of the Statute, the Portuguese Ombudsman has its own premises.

The main office of the Portuguese Ombudsman is located in Lisbon, the capital of the country.

The Portuguese Ombudsman has also two regional offices in the Autonomous Regions of the Azores and Madeira. These Regions, situated in the Atlantic Ocean, require a special attention in order to ensure that the access to the Ombudsman is guaranteed. Moreover, the Portuguese Ombudsman makes regular visits to the Autonomous Regions in order to have private hearings with complainants and to have meetings with regional public entities addressed in the complaints. It is also important to mention that the complaints received by the regional offices are forwarded to the main office, where they are handled by two Legal Advisers who have the specific responsibility to follow the issues concerning their respective Autonomous Region. The complaints from the Azores and Madeira are handled in the same way as any other complaint received by the Ombudsman, using the most expeditious means of communication.

The access to the Portuguese Ombudsman can be made in person either directly or through the Public Relations Division. Complaints may also be submitted by email, letter, fax or through an electronic form available in the Portuguese Ombudsman's website. Currently the most utilised mean of communication is the email and the electronic form, which represented, in 2016, 70% of all the complaints received.

There is also a general telephone helpline and three specialized toll-free hotlines for issues concerning children, elderly persons and persons with disabilities.

Bearing in mind the specific needs of children, namely accessible language, the Portuguese Ombudsman has, since 2012, child-friendly webpage designed to provide in a more attractive and comprehensible way information on the role of the Ombudsman, its functions and activities to promote children's rights. There are also specialised means available to children and young people access to the Portuguese Ombudsman, i.e. through the complaint mechanism or the children's telephone line.

In the field of accessibility, it is important to mention that the Portuguese Ombudsman's website was extensively overhauled in 2015, with the introduction of a full English version and a specific webpage for the NPM.

This work has been integrated with a new electronic case management system that, since 2015, enabled the full dematerialization of the case files, contributing to a much more efficient, effective and environmental friendly procedures.

Since 2010, the Portuguese Ombudsman has a Cooperation Protocol with the National Association of Portuguese Municipalities, to promote the diffusion of information on people's rights and the Ombudsman's mission, competences and activity. This Protocol ensures that the Municipalities provide free use of computers to the people who wish to register a complaint to the Ombudsman via website. The Municipalities also have available an officer who can assist the complainants in filling the electronic form. On the premises of the Municipalities are also available flyers explaining the mission and duties of the Ombudsman.

Since 2012, there is also a Cooperation Protocol with the High Commissioner for Migrations, through which migrants are informed of their rights, the mission and competences of the Ombudsman, including access to it, and the means available to file a complaint. In the High Commissioner premises, namely in the National Centres for Immigrants Support, there is accessibility to the Portuguese Ombudsman website and assistance in filling complaints. In 2016 those flyers were reviewed and translated into six languages (English, French, Mandarin, Romanian, Russian and Ukrainian).

The Ombudsman's premises are accessible. They are located in an area where the access through public transportation can be made, although with some limitations, considering the distance from the nearest bus stop. There is one parking place for persons with disabilities. The Portuguese Ombudsman has already expressed his concern regarding this matter in several occasions, namely in meetings with the Finance Minister on 26 November 2013 and the Prime Minister on 13 January 2016. Yearly, the Portuguese Ombudsman has been addressing this issue to the Parliament, on the occasion of the presentation of the annual report, the latest on 14 June 2017.

4.4 Budget

The Paris Principles state that the national institution shall have an (...) adequate funding (...) and not be subject to financial control which might affect its independence.

*The GANHRI has adopted the following General Observation on **Adequate Funding**: Provision of adequate funding by the state should, as a minimum include:*

- the allocation of funds for adequate accommodation, at least its head office;*
- salaries and benefits awarded to its staff comparable to public service salaries and conditions;*
- remuneration of Commissioners (where appropriate); and*
- the establishment of communications systems including telephone and internet.*

Adequate funding should, to a reasonable degree, ensure the gradual and progressive realization of the improvement of the organization's operations and the fulfillment of their mandate. Funding from external sources, such as from development partners, should not compose the core funding of the NHRI as it is the responsibility of the state to ensure the NHRI's minimum activity budget in order to allow it to operate towards fulfilling its mandate. Financial systems should be such that the NHRI has complete financial autonomy. This should be a separate budget line over which it has absolute management and control.

Discuss the NHRI's budget. Please explain:

- How the NHRI's budget is developed, submitted and approved (e.g. if it is drafted by the NHRI, presented directly to parliament or through a government ministry or other body, the influence of that body);
- Whether or not the NHRI has control over the management and expenditure of its allocated budget (i.e. if the NHRI is financially independent from the government in how its budget is spent).
- Whether -and what percentage of- the NHRI budget is donor funded.

Please provide:

- information relating to the budget of the NHRI, its accounts and financial records;

The Portuguese Ombudsman has financial and administrative autonomy, having its own budget, staff and premises (Article 40 (2) of the Statute).

According to Articles 43 of the Statute and 23 of the Organic Law, the budgetary procedure is the following:

a) The annual budget proposal is drafted and approved by the Portuguese Ombudsman, taking into account the amount indicated for that year by the Parliament and the general rules set by the Ministry of Finance for all Public entities budgets;

b) The Portuguese Ombudsman submits the proposal directly to the Parliament. The Portuguese Ombudsman has its own budget but it is contained, separately, in the Parliament's budget;

c) Subsequent modifications within the budget set for the year are approved by the Portuguese Ombudsman;

d) Decisions regarding management and expenditure of the approved budget rest on the responsibility of the Ombudsman, who has powers similar to those of a Minister.

No percentage of the budget is donor funded.

The following table contains the information regarding the years 2013 – 2017

Categories	Budget 2013	Budget 2014	Budget 2015	Budget 2016	Budget 2017
Staff expenditure	€4 462 558,00	€4 379 087,00	€4 336 655,00	€4 588 409,00	€4 586 655,00
Acquisition of current goods and services	€674 565,00	€556 638,00	€650 625,00	€572 410,00	€568 225,00
Acquisition of capital goods/Investements	€63 100,00€	€91 992,00	€79 987,00	€132 809,00€	€120 000,00
Total	€5 200 223,00	€5 027 717,00	€5 067 267,00	€5 293 628,00	€5 379 150,00

Since May 2011 until June 2014 Portugal was under the Economic Adjustment Programme set by the European Commission, the European Central Bank and the IMF which conducted to budgetary constraints including in the Ombudsman's Office. Despite these constraints, the level of funding remained adequate in order to the Ombudsman accomplish its mission and to strengthen its position as a fundamental rights defender. In fact, notwithstanding the above-mentioned constraints, the Portuguese Ombudsman was able to deepen its mission regarding

the promotion and protection of human rights and, at the same time, apply internal reforms to improve the efficiency of the service provided to the people.

5. WORKING METHODS

Please indicate whether your organization has adopted internal regulations and/or an annual/strategic plan. Briefly describe its main elements.

The Portuguese Ombudsman has both an Annual Plan of Activities and an Internal Regulation.

The Annual Plan of Activities outlines the strategic and operational goals of the institution for each year, identifying work priorities for every service. It is divided into the following chapters:

- Mission and attributions
- Strategic goals
- Operational goals/activities
- Resources
- Concluding remarks

The Plan of Activities is available, in Portuguese, at the institution's website¹⁸.

The 2017 Plan of Activities, giving continuity to the 2016 Plan of Activities, establishes two main strategic axes:

- Improving the quality of services provided to the public through a) the decrease of pending complaints and the increase of case resolution effectiveness, b) the development of staff training actions, c) the maintenance and update of the computer complaint management system and the modernization of equipment and support systems and d) the development of the integrated project for citizen service.
- Deepening the culture of respect for human rights through a) the development of the activity of the Ombudsman as National Human Rights Institution, b) the project "The Ombudsman, the prisons and the 21st century: a diary of some visits", c) the publication of thematic reports, d) the development of activities under the protocols signed with a number of entities, and e) producing informational materials to raise awareness on human rights.

The Internal Regulation defines the in-house procedures necessary for the activity of the Portuguese Ombudsman, including the assessment of complaints and the handling of cases.

¹⁸ http://www.provedor-jus.pt/site/public/archive/doc/Plano_de_atividades_2017.pdf

Its current version entered into force in September 2014, and is divided into the following titles:

- I General Provisions
- II Proceedings
 - Complaint Proceedings
 - Ex officio* Proceedings
 - Hearings Proceedings
 - Other Internal Proceedings
- III Public Attendance Services
- IV Annual Report of Activities
- V Dissemination of Information and Media
- VI Final Provisions

It also includes a Code on Good Administrative Behaviour by which the Ombudsman and all his/her staff and services are bound.

The Internal Regulation is available, in Portuguese, at the Ombudsman's website¹⁹.

5.1 Regular meetings

The Paris Principles state that within the framework of its operation, the national institution shall meet on a regular basis and whenever necessary in the presence of all its members after they have been duly convened.

Discuss how the meetings of the NHRI's members operate. Please explain:

- The frequency and composition of the NHRI meetings in practice (at the senior and staff level).

As an Ombuds-type of institution, the Portuguese Ombudsman is a unipersonal body that operates permanently. The Ombudsman follows the work of his/her staff through meetings with the Deputies, the Coordinators and the Legal Advisers. Such meetings are held whenever deemed necessary.

At the staff level, Thematic Units meetings with the Deputies and the Coordinators take place frequently.

5.2 Working groups

The Paris Principles state that within the framework of its operation, the national institution shall establish working groups from among its members as necessary.

Discuss the NHRI's working groups (if any). Please explain:

- Whether the NHRI has established any working groups;
- If so, what are the mandate, composition and working methods of these groups.

¹⁹ http://www.provedor-jus.pt/site/public/archive/doc/Regulamento_Interno_DR-Desp. 10974-2014.pdf

The Office of the Portuguese Ombudsman is structured in Thematic Units, as detailed in the above section 4.1.

The Thematic Units are organised according to different subject matters. Moreover, there is an additional structure concerned with specific population groups (N-CID). This allows for an adequate division of labour and a specialised approach.

For this reason, working groups dedicated to specific issues are set up by the Ombudsman on a non-regular basis, namely whenever deemed necessary to draft thematic reports.

GENERAL MANDATE

6. GENERAL COMPETENCE AND RESPONSIBILITIES

For each of the functions described in the following sections, please discuss:

- the relevant provisions in the NHRI's founding law,
- the powers the NHRI is vested with (e.g. if it can act on its own initiative), and
- concrete examples of how the NHRI fulfils the function in practice.

6.1 Mandate to promote and protect human rights

The Paris Principles state that a national institution shall be vested with competence to promote and protect human rights. A national institution shall be given as broad a mandate as possible, which shall be clearly set forth in a constitutional or legislative text (...). Within the framework of its operation, the national institution shall freely consider any questions falling within its competence, whether they are submitted by the Government or taken up by it without referral to a higher authority, on the proposal of its members or of any petition.

*The GANHRI has adopted the following General Observation on **Human rights mandate**: All NHRIs should be mandated with specific functions to both protect and promote human rights, such as those listed in the Paris Principles.*

Discuss the broad legal mandate of the NHRI. Please explain:

- How human rights are defined in the NHRI's founding law;
- Which rights the NHRI is mandated to address: e.g. civil, political, social, economic and cultural;
- If the institutions' mandate refers to any limitation in the mandate or jurisdiction (e.g. rights or areas of the countries that are excluded);
- Broadly, how the NHRI is able to exercise its mandate in practice.

Both Articles 23 of the Portuguese Constitution and 1 (1) of the Statute establish that the main function of the Portuguese Ombudsman is to defend and to promote the rights, freedoms and guarantees and legitimate interests of citizens, ensuring that public authorities act fairly and in compliance with the law.

These legal provisions explicitly grant the Ombudsman with protection and promotional mandate, which is reflected in the set of competences and powers that the law confers to the officeholder.

The notion of “rights, freedoms and guarantees and legitimate interests” is fairly broad and includes, besides the rights enshrined in the Constitution and in other internal law, those established by customary international law and international human rights instruments, which are part of the Portuguese legal order, pursuant to Article 8 of the Constitution (see, in particular, paragraphs 1 and 2):

For the purposes of the mandate of the Portuguese Ombudsman there is no difference between civil and political rights and economic, social and cultural rights, as all of them fall within the scope of its competence of the Ombudsman.

In light of the principles of universality, equality and equal treatment, enshrined in Articles 12, 13 and 15 of the Constitution, the concept of “citizens” is understood to mean all persons, without discrimination of any sort, *inter alia* based on age, gender, nationality, place of residence and racial or ethnic background, religion, political or ideological convictions, education, economic status, social status or sexual orientation. Beyond doubt, the Ombudsman is an institution available also to foreigners and stateless persons, regardless of whether or not they have regularised their legal situation in the country. Moreover, legal persons are subject of fundamental rights and accordingly may apply to the Ombudsman.

The Ombudsman can only intervene in relation to the action of Portuguese national entities.

Following the recommendation addressed by the Ombudsman to the Parliament in February 2012, the Statute was amended by Law 17/2013, of 18 February 2013, in order to make explicit that the Ombudsman competence covers also private entities that provide services of general interest, thus expressly covering, *inter alia*, cases of former public companies that are privatized.

Pursuant to Article 2 (1) of the Statute, the activities of the Ombudsman shall focus namely on the activity of the services integrated in the central, regional and local public administration, the Armed Forces, the public institutes, the public companies or the companies whose capital is mostly public, the concessionaires operating public services or exploiting state property, the independent administrative bodies, the public associations, including professional bodies, and the private entities exercising public authority powers or providing general interest services.

Article 2 (2) of the Statute further broadens the Ombudsman’s scope of activity. It states that the Ombudsman may also act as regards relations between private entities, but only if they entail a special relationship of power from one over the other and the aim of the intervention is to protect fundamental rights, freedoms and guarantees.

The Ombudsman may act in relation not only to actions but also to omissions of the entities covered by his/her mandate. Also, the intervention of the Ombudsman may be directed either at preventing, halting or remedying situations of illegality or injustice.

The limits to the Ombudsman's mandate are set out in Article 22 of the Statute, according to which only the political and jurisdictional functions are excluded from the Ombudsman competence.

This means, on the one hand, that the Ombudsman cannot intervene with regard to courts or Public Prosecution Service in order to scrutinize, to monitor or to influence the way in which cases submitted to the judicial power are solved. The Ombudsman powers of inspection and monitoring can only be exercised with regard to administrative aspects of the activity of such courts and services – especially, cases of judicial delay – and cannot cover the content or merits of judicial decisions and sentences. According to the principle of independence of the courts and to the principle of the prevalence of their decisions over those of any other authority (Articles 203 and 205 (2) of the Constitution), a court decision can only be modified by another court decision, to the extent of the means of appeal that the law specifically provides to that effect.

It also means, on the other hand, that Ombudsman cannot intervene in matters that relate strictly to political choices, falling within the legislator's margin of discretion.

According to Article 23 (1) of the Constitution and to Articles 3, 4 and 24 of the Statute, the Ombudsman may act on matters falling within his/her competence on the basis of complaints submitted by any person or group of persons (whether natural or legal persons), as well as on his/her own initiative.

Own-initiative interventions can be based on facts or issues that otherwise come to the Ombudsman's knowledge, such as through NGO and media reports. They may also result from the consideration of systemic/horizontal issues identified when dealing with individual complaints.

The Ombudsman has complete independence in the exercise of his/her functions. This entails, *inter alia*, the freedom to determine the complaints and own-initiative interventions to be taken up for investigation, as well as to decide which competences and powers to exercise so as to investigate, remedy or prevent situations of illegality or injustice.

Article 20 of the Statute accords to the Portuguese Ombudsman the following competences:

- Address recommendations to the competent bodies with a view to correcting illegal or unfair acts of public authorities or to improving their services and the administrative procedures followed by those services – i.e. administrative recommendations - paragraph 1, indent a);
- To point out shortcomings in legislation, to issue recommendations concerning its interpretation, amendment or revocation, or to suggest the drafting of new legislation – i.e. legislative recommendations. Such recommendations or suggestions shall be forwarded to the President of the Parliament, to the Prime Minister and to the Ministers directly involved and, should it be the case, to the

Presidents of the Regional Legislative Assemblies and to the Presidents of the Governments of the Autonomous Regions – Azores and Madeira - paragraph 1, indent b);

- To issue opinions, upon request of the Parliament, on any matter related to its activity - paragraph 1, indent c);
- To promote the divulgation of the content and meaning of each fundamental right and freedoms, as well as of the purpose of the Ombudsman institution, the means of action at its disposal and how to appeal to it (paragraph 1, indent d));
- To intervene, in accordance with the applicable law, in the protection of collective or diffuse interests when a public authorities or companies and services of general interest, regardless of their legal status, are involved - paragraph 1, indent e);
- To request the Constitutional Court to declare the unconstitutionality or illegality of any legal provisions, in accordance with Article 281 (1) (2), indent d) of the Constitution, and request the Constitutional Court to rule on cases of unconstitutionality due to a legislative omission, in accordance with Article 283 (1) of the Constitution – paragraphs (3) (4).

Article 23 (3) of the Statute adds that if the Ombudsman deems it convenient, he/she may participate in the work of parliamentary committees for the purpose of dealing with matters within his/her competence.

To examine matters falling within his/her scope of competence, the Ombudsman has significant powers of investigation, limited only by the necessary respect for fundamental rights and for legal restrictions concerning the secret of Justice (confidentiality of judicial investigations) or the higher interest of the State, when duly justified by the competent bodies, on issues relating to security, defence or international relations (Articles 21, 28, 29 and 30 of the Statute).

Article 21 (1) of the Statute grants the Ombudsman with the following powers:

- To make, with or without prior notice, inspection visits to any area of activity of the central, regional and local administration, including public services and civil and military prisons, companies and services of general interest, whatever its legal status, or to any other entities under his control, to hear their bodies and officials and to request them such information and documents as he/she may deem adequate - indent a);
- To undertake such investigations and enquiries as he/she may deem necessary or convenient, where he/she may use, for the purposes of collecting and producing evidence, all reasonable means, provided that such means do not collide with the rights and legitimate interests of citizens - indent b);
- To search, in cooperation with the competent bodies and services, the solutions which best serve the protection of the legitimate interests of citizens and the improvement of the Administration's activity - indent c).

Article 28 details that investigation consists of requests for information, inspections, examinations, inquiries or any other reasonable procedure that does not collide with the fundamental rights of citizens and shall be undertaken through informal and swift means. Actions to investigate a case shall be carried out by the Ombudsman and his/her staff, but they may also be requested directly to Public Prosecutors or any other public entities with priority and urgency if necessary.

Article 23 (4) of the Constitution and Article 29 of the Statute establish a wide duty of cooperation with the Ombudsman on the part of the entities under his/her competence (the entities mentioned in Article 2 (1) of the Statute).

It should be noted that the Ombudsman is accorded powers to set in writing a deadline not inferior to 10 days for a demand of his/her to be urgently met - Article 29 (4) of the Statute. Also, the Ombudsman may determine the presence of any worker or representative of any entity at the Ombudsman offices or at another place indicated by him/her and justified by the circumstances, so that the due cooperation is provided. According to Article 29 (6), unjustified non-compliance with the duty to cooperate constitutes a crime of disobedience, notwithstanding the applicable disciplinary proceedings.

Article 30 (1) allows the Ombudsman to request statements or information from any person whenever deemed them necessary for establishing the facts. Where a convened person refuses to make a statement or to be present at the designated date and time, the Ombudsman may summon the persons to be heard by registered mail, and subsequent unjustified absence or refusal to make a statement shall constitute a qualified crime of disobedience (Article 30 (4)).

In respect to recommendations issued by the Ombudsman, Article 38 of the Statute establishes a 60-day deadline upon receipt for the addressee to inform the Ombudsman of its position on the matter, providing due justification in case of non-compliance (paragraphs 2 and 3). In case a recommendation is not complied with, and whenever the assistance requested is not forthcoming, the Ombudsman may address the hierarchical superior of the recipient (paragraph 4). Should the Administration not comply with the recommendation or should it refuse to cooperate as requested, the Ombudsman may address the Parliament stating the reasons behind his/her actions (paragraph 6).

Where the circumstances so require, the Ombudsman may decide to issue statements or to publish information concerning the conclusions reached in the proceedings or any other matter related to his activity, using, if necessary, the State-owned media for that end, and benefiting in any event from the legal regime governing the publication of official statements, according to the respective laws (Article 35 (2) of the Statute).

The overall competences and powers of the Ombudsman, as explained above, combined with the authority and reputation of integrity and independence that the

institution enjoys, ensure the necessary conditions to accomplish its constitutional and legal mandate.

6.2 Advisory Functions

The Paris Principles state that a national institution shall, inter alia, have the responsibility to submit to the Government, Parliament and any other competent body, on an advisory basis either at the request of the authorities concerned or through the exercise of its power to hear a matter without higher referral, opinions, recommendations, proposals and reports on any matters concerning the promotion and protection of human rights (...).

Discuss the legal provisions for this function and how the NHRI carries out this responsibility in relation to the following functions:

The Portuguese Ombudsman's mandate is quite broad and comprehends the protection and promotion of all fundamental rights of all persons, ensuring that public authorities and, in some cases, private entities, act fairly and in compliance with the law (Article 23 of the Constitution and Articles 1(1) and 2 of the Statute). The Ombudsman may exercise all duties, competences and powers based on complaints or on his/her own-initiative (Article 23 (1) of the Constitution and Articles 3, 4 and 24 of the Statute).

In order to fulfil this broad mandate, the Ombudsman may resort to a wide set of powers and competences that include the possibility to address administrative or legislative recommendations, to request the intervention of the Constitutional Court and to issue opinions at the request of the Parliament on any matter related to its activity (Article 23 (1) of the Constitution and Articles 20 and 21 of the Statute).

The Portuguese Ombudsman is inherently a member of the Council of State, which is a political body that advises the President of the Republic (Article 142 (d) of the Constitution and Article 20 (2) of the Statute). This enables the Ombudsman to, at the highest level of the State, give voice to the rights and legitimate interests that he/she is mandated to protect and promote.

Besides the Annual Report to the Parliament, the Ombudsman also produces thematic reports on specific human rights themes, namely the outcome reports of general actions of inspection, carried out *ex officio* pursuant the Ombudsman's power to conduct inspections. Such reports include an overall assessment of the situation found in a given area of activity and recommendations/suggestions addressed to the competent authorities to overcome deficiencies or shortcomings. Further information on these reports is provided in section 6.3.2.

These means of action allow the Ombudsman to adequately perform an advisory role with a view to protecting and promoting human rights.

6.2.1 Functions regarding national legislation

The Paris Principles state that a national institution shall have the responsibility to promote and ensure the harmonization of national legislation regulations and practices with the international human rights instruments to which the State is a party, and their effective implementation.

It is also stated that a NHRI shall have responsibilities in relation to any of the following areas:

(i) Any legislative or administrative provisions, as well as provisions relating to judicial organizations, intended to preserve and extend the protection of human rights; in that connection, the national institution shall examine the legislation and administrative provisions in force, as well as bills and proposals, and shall make such recommendations as it deems appropriate in order to ensure that these provisions conform to the fundamental principles of human rights; it shall, if necessary, recommend the adoption of new legislation, the amendment of legislation in force and the adoption or amendment of administrative measures.

Discuss how the NHRI carries out this function. Please explain:

- The legal provisions that vest the NHRI with this function;
- How the NHRI carries out this function in practice;
- What recommendations the NHRI has made on legislative and administrative provisions; amendment of legislation and bills, etc.;
- What advocacy the NHRI has undertaken to harmonize national laws and practices to international standards and/or to implement recommendation of international human rights system).

The Ombudsman may request the Constitutional Court to declare the unconstitutionality or illegality of any legal provisions, in accordance with Article 281 (1) and (2) (d) of the Constitution (Article 20 (3) and to rule on cases of unconstitutionality due to a legislative omission, in accordance with Article 283 (1) of the Constitution (Article 20 (4)).

The Ombudsman is competent to issue opinions, upon request of the Parliament, on any matter related to its activity and to promote the diffusion of the content and the meaning of each of the fundamental rights and freedoms (Article 20 (c) and (d)).

The Statute stipulates that the Ombudsman has competence to point out shortcomings in legislation, to issue recommendations concerning its interpretation, amendment or revocation, or to suggest the drafting of new legislation. Such recommendations or suggestions shall be forwarded to the President of Parliament, to the Prime Minister and to the Ministers directly involved and, should it be the case, to the Presidents of the Regional Legislative Assemblies and to the Presidents of the Autonomous Regions Governments (Article 20 (1) (b)).

It should be noted that the action of the Ombudsman includes not only the rights protected by the Constitution and internal law since, according to the Portuguese Constitution, the norms and principles of general or common international law form an integral part of domestic Portuguese law. The norms contained in duly

ratified or approved international conventions come into force in Portuguese internal law once they have been officially published, and remain so, for as long as they are internationally binding on the Portuguese state. The norms issued by the competent organs of international organisations to which Portugal belongs come directly into force in Portuguese internal law, on condition that this is laid down in the respective constituent treaties (Article 8 (1 to 3) of the Constitution).

The Ombudsman has legitimacy to contest judicially the legality of the acts and regulations of professional public associations (Article 46 (2) (d) of Law 2/2013, of 10 January 2013).

In practise, regarding national legislation, the NHRI carries out this function by the following means: i) comments in draft legislation to help authorities examine human rights aspects of the issue, ii) in case of shortcomings, recommendations, suggestions or critical remarks, iii) suggestion of new legislation, iv) to issue opinion, upon request of the Parliament, and v) request the intervention of the Constitutional Court.

Examples of recommendations/suggestions the NHRI has made on legislative and administrative provisions to ensure fuller alignment of the legislation/ regulations with the requirements of human rights are:

- In relation to judicial organisation, in 2016, the Ombudsman addressed a request to the Constitutional Court, aimed at the declaration of unconstitutionality of a rule enshrined in the Judiciary System Organisation Act, approved by Law 62/2013, of 26 August 2013, which allowed changes of judges and subtraction of proceedings, on a case by case and discretionary basis, in breach of the principle of independence of the courts as well, among others. In its argument the Ombudsman also emphasised the case law of the European Court of Human Rights with regard to the right to a fair trial. The aforementioned rule was amended by Law 40-A/2016, of 22 December, and the proposal used a line of argument consistent with the request of the Ombudsman.
- International standards were invoked, namely the United Nations General Assembly Resolution of 19/11 (2010), in the context of public policies for ageing, in a Recommendation addressed to the Directorate-General for Health, after consideration of several complaints revealing the lack of coordination between different public authorities in monitoring the problems caused by carriers of «*Diogenes syndrome*», which is a mental pathology characterized by intense accumulation of objects and waste within households. It was recommended the adoption of a document containing guidelines on how to handle these cases. This Recommendation was accepted.
- The Ombudsman suggested to the Prime Minister the revision of a Resolution of the Council of Ministers which significantly restricted the possibility of extending collective agreements to non-parties, with harmful consequences for collective bargaining in Portugal, according to the analysis

of The International Labour Organization's 2014 Report «Portugal: Tackling the Job Crisis».

- The considerations on evictions expressed by the UN Special Rapporteur on Right to Housing were quoted in a Recommendation addressed to the Government to revise the law applicable to rehousing in the metropolitan areas of Lisbon and Oporto, which is currently unable to respond to the existing demand for housing. Besides that, the conclusions of the Country Report of the UN Special Rapporteur on Right to Housing, on her recent visit to Portugal, was recently quoted in a communication of the Ombudsman's office drawing the attention to the need to provide social housing.
- A comprehensive study on the municipal regulations regarding the use of public swimming pools in order to identify health safety provisions that may result in discrimination against persons living with HIV and AIDS. In some cases, the access to swimming pools is subject to the submission of a medical certificate attesting that the user does not have contagious or transmissible diseases. The Ombudsman considered such provisions discriminatory and unjustified from a clinical point of view, and communicated his position to Local Authorities.
- The Ombudsman suggested to the Government the attribution of equal monetary prizes to athletes taking part in the Olympic Games and in the Paralympic Games, in accordance with the Universal Declaration of Human Rights and the Convention on the Rights of Persons with Disabilities.
- A Recommendation to the Government to revise a special support benefit provided to children and young with disabilities and learning difficulties, in the purpose that all children with special educational needs should benefit from it. In 2016, this Recommendation was complied with.
- In what concerns women's social rights, the Ombudsman detected that pregnant employees who saw their employment contract ceased were not entitled to parental or unemployment benefits, after their children's birth. The Ombudsman addressed legislative amendment suggestions to the Government which were accepted.
- With regard to workers' rights, the Ombudsman made several interventions regarding the social protection of unemployed citizens, among which we highlight the Recommendation addressed to the Government, in 2016, which aim was to guarantee a minimum limit for unemployment benefit, corresponding to the social support index value. This Recommendation was accepted.
- While not contained in a Recommendation, the Ombudsman, in regard to the right to be granted equal opportunities of access to public employment, has constantly and repeatedly drew the public entities' attention to unlawful practices adopted in selection and recruitment procedures, which undermine the purpose of conducting public tenders and the right of candidates to a *due procedure*.

- Concerning equal treatment/non discrimination on the grounds of age the Ombudsman addressed the Government (first in 2011 and later in 2015) with the aim of discussing, from a fundamental rights perspective and international standards, the need to amend the law that sets 30 years as the maximum age for admission in the investigative career in the national criminal police service. As the matter should be considered in a future legislative reform, the Ombudsman continues monitoring the follow up.
- The Ombudsman concerned with the equal enjoyment of the rights to water and sanitation by foreign citizens with permanent residence, suggested to a local authority to abolish a legal requirement (local electoral register) imposed for the access to a benefit for domestic users with lower income (social tariff). The local authority responded positively. In another intervention, the Ombudsman suggested the creation of social tariff for water in order to benefit those with lower or no income at all. The local authority committed to do so.

Other recommendations, suggestions and requests to the Constitutional Court issued by the Ombudsman are available at the Ombudsman's website (<http://www.provedor-jus.pt>).

The NHRI undertakes constant advocacy to harmonize national laws and practices with international norms and standards and to implement recommendations arising from the international human rights system, namely through regular public interventions (see 6.4).

6.2.2 Encouraging ratification and implementation of international standards

The Paris Principles state that a national institution shall have the responsibility to encourage ratification of international human rights instruments to which the State is a party, and to ensure their effective implementation.

The GANHRI has adopted the following General Observations on NHRIs' encouraging ratification or accession to international human rights instruments: The Sub-Committee interprets that the function of encouraging ratification or accession to international human rights instruments, set out in the Paris Principles, is a key function of a National Institution. The Sub-Committee therefore encourages the entrenchment of this function in the enabling legislation of the National Institution to ensure the best protection of human rights within that country.

Discuss how the NHRI carries out this function. Please explain:

- The legal provisions that vest the NHRI with this function;
- How the NHRI carries out this function in practice;
- Examples of advocacy or awareness raising campaigns the NHRI has undertaken to encourage ratification or accession to international instruments.

As a human rights institution the Ombudsman is empowered to encourage ratification and implementation of international standards.

Since 2013, the Ombudsman may act as an independent national institution for monitoring the implementation of international treaties and conventions on human rights, when designated for that purpose. The Ombudsman ensures cooperation with similar institutions and with European Union and international organizations for the support and promotion of citizens' rights, freedoms and guarantees (Article 1 (2) and (3) of the Statute, amended by Law 17/2013, of 18 February).

Since Portugal has ratified the main international human rights instruments, at the moment, the ratification or accession of international instruments is not a major challenge. The major concern is that the implementation is effective.

The Ombudsman, in his/her capacity as NHRI, is invited to participate in the plenary and working group meetings of the National Human Rights Committee, created in 2010 pursuant to a commitment taken by Portugal in the framework of its UPR. It is a governmental body that works under the Ministry of Foreign Affairs and aims to ensure better coordination between ministries, both regarding the preparation of Portugal's position in international organizations on human rights and the fulfilment of its obligations on this matter.

One of the specific competences of the National Human Rights Committee is to propose that the Portuguese State consents to be bound by international human rights instruments. As such, through the participation in its meetings, the Ombudsman has the possibility to receive regular updates on different human rights initiatives undertaken by the Portuguese authorities, namely as regards on-going and planned ratification/accession procedures, as well as to provide direct feedback to the competent authorities in that context.

The Ombudsman was particularly engaged in promoting swift ratification by Portugal of the Optional Protocol to the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (hereafter, «the OPCAT»).

The Ombudsman encouraged national authorities to proceed quickly with the ratification process, confirming his availability to undertake the function of National Preventive Mechanism, in light of the powers that he already has and the sustained work that he has developed over the years as regards the penitentiary system and the rights of inmates. The Ombudsman wrote letters to the Minister of Foreign Affairs and participated in meetings, which were also attended by representatives of ministries and other public entities. During Portugal's UPR exam, the Ombudsman specifically mentioned this issue in his oral address to the Human Rights Council.

In the recommendation that he addressed to the Parliament in February 2012 concerning the revision of his Statute, the Ombudsman suggested the inclusion of provisions providing an explicit legal basis for his international work and functions,

which would, upon designation as National Preventive Mechanism, also cover this capacity.

By Resolution of the Council of Ministers 32/2013, of 9 May 2013, the Portuguese Ombudsman was appointed as the National Preventive Mechanism.

Moreover, following the ratification of the Convention on the Rights of Persons with Disabilities, signed at the United Nations, the National Mechanism was established. It includes, among others, a representative of the Ombudsman (Resolution of the Council of Ministers 68/2014, of 13 November 2014).

6.3 Monitoring functions

The Paris Principles state that a NHRI shall have responsibilities in relation to (...) any situation of violation of human rights which it decides to take up; and (...) on drawing the attention of the Government to situations in any part of the country where human rights are violated and making proposals to it for initiatives to put an end to such situations and, where necessary, expressing an opinion on the positions and reactions of the Government.

Discuss how the NHRI carries out this function. Please explain:

- The legal provisions that vest the NHRI with this function;
- How the NHRI carries out this function in practice;
- How the NHRI is active in monitoring domestic human rights situations (e.g. decision-making bodies, courts, government agencies), including visiting places of deprivation of liberty, etc.
- Whether the Institution monitors government compliance with its advice and recommendations.

As seen in previous sections the main duties of the Ombudsman are to defend and to promote the rights, freedoms, guarantees and legitimate interests of the citizens and his jurisdiction covers the entire national territory.

His/her mandate is broad, covers the defense and the promotion of the rights, freedoms and guarantees and legitimate interests of the citizens, ensuring that public authorities – and, in some cases, private entities and individuals – act fairly and in compliance with the law. The scope of activity of the Ombudsman may also include the relations between natural persons (in a special power relationship), within the scope of protection of rights, freedoms and guarantees (Article 1 (1) and Article 2 (1) of the Statute).

In order to prevent, halt or remedy any situations of illegality or injustice, the Ombudsman may resort to a variety of competences and powers, such as:

- i) To make, with or without prior notice, inspection visits to hear the bodies and officials and to request information and documents (Article 21 (1) (a) of the Statute).
- ii) To undertake investigations and enquiries, and use, for the purposes of collecting and producing evidence, all reasonable means, provided that

such means do not collide with the rights and legitimate interests of citizens (Article 21 (1) (b) of the Statute).

- iii) To issue administrative or legislative recommendations and requesting the intervention of the Constitutional Court.
- iv) Address critical remark to the body or the services involved.

These provisions establish a broad and solid legal basis that enables the Portuguese Ombudsman to remain vigilant to any human rights situation that needs attention.

As regards active monitoring initiatives, over the years, systematic visits and inspections have been carried out to: schools (basic education and secondary schools), healthcare facilities (hospitals, health centres and mental health facilities), juvenile detention centres, detention centres for non-admitted foreigners, prisons and police stations, among others.

Each visit is followed by a report and if necessary, by suggestions, recommendations and follow-up measures to be taken. The reports are available on the Ombudsman's website.

Also, the Ombudsman's staff has developed the good practice to visit prisons, police stations and schools following the reception of a complaint, to observe the conditions and meet persons.

The Ombudsman determined that, in the course of 2016, he would personally visit the Portuguese prisons. «*The project Ombudsman, the prisons and the 21st century*» will continue its development throughout the year 2017. A set of reports was drawn up with the main observations and concerns that the Ombudsman stressed in each of the visits, thus fostering joint reflection on the prison system and the problems that plague it. It should also be noted that following the visits the Ombudsman sometimes determines the opening of further procedures.

The Portuguese Ombudsman also undertakes systematic inspection of places of detention as the NPM.

The National Institution collaborates, with full respect of the Ombudsman independence, with the National Human Rights Committee. Within this framework the Ombudsman, for instance, integrated working groups on the definition of national human rights indicators (on violence against women, equality and non-discrimination and housing, the right to the enjoyment of the highest attainable standard of physical and mental health). These indicators are based upon those developed by the High Commissioner of Nations United for Human Rights, and which are essential for the monitoring and implementation of human rights.

As already mentioned, the Ombudsman is also represented in the National Commission for the Promotion of Rights and Protection of Children and Youth and in the National Mechanism for Implementation and Monitoring the Convention on the Rights of Persons with Disabilities.

The Ombudsman's recommendations are always subject to follow-up to assess whether the competent authorities complied with them or not. The body to which a recommendation is addressed shall, within sixty days upon its receipt, inform the Ombudsman of its position on the issue. Non-compliance with a recommendation must be duly grounded (Article 38 of the Statute). If recommendations are not complied with, and whenever the assistance requested is not forthcoming, the Ombudsman may address the competent superior or, should it be the case, to the supervising Minister. If the executive body of a local council does not comply with the recommendations of the Ombudsman, he/she may address its deliberative assembly. If the Administration does not comply with a recommendation or refuse to cooperate as requested, the Ombudsman may decide to address the Parliament, as well as to inform the public, directly or through state-owned media (Article 38 and Article 35 (2) of the Statute).

The Ombudsman's Annual Reports to the Parliament includes a brief description of the follow-up given to recommendations and requests to the Constitutional Court, as well as of the status of own-initiative cases and inspections. Those texts are also available at the website of the Ombudsman (www.provedor-jus-pt).

6.3.1 Investigation

The Paris Principles state that within the framework of its operation, the national institution shall: hear any person and obtain any information and any documents necessary for assessing situations falling within its competence.

Please complete this section if the NHRI does not have quasi-jurisdictional competence as set out in section 7 below.

Discuss how the NHRI carries out this function. Please explain:

- The legal provisions that vest the NHRI with this function;
- Whether individuals, government, public bodies etc are obliged to provide the NHRI with requested documentation;
- How the NHRI carries out this function in practice (e.g. in the conduct of public inquires).

To fulfil his/her mandate of promoting and protecting human rights the Ombudsman may resort to significant powers of investigation. The duty to cooperate with the Ombudsman is established in the Constitution (Article 23 (4) and in the Statute (Articles 29 and 30).

The powers of investigation of the Ombudsman are the following:

- To make, with or without prior notice, inspection visits to any entities under his control, hearing their bodies and officials and requesting such information, and documents, as he may consider adequate (Article 21 (1) (a));
- To undertake such investigations and enquiries as he/she may deem necessary or convenient, where he/she may use, for the purposes of collecting and producing evidence, all reasonable means, provided that such

means do not collide with the rights and legitimate interests of citizens (Article 21 (1) (b));

- To search, in cooperation with the competent bodies and services, the solutions which best serve the protection of the legitimate interests of citizens and the improvement of the Administration's activity (Article 21 (1) (c));
- To request actions within the investigation process directly to Public Prosecution officials or any other public entities, with priority and urgency if necessary (Article 28);
- To request information and clarification (Article 29 (1));
- To request documents and files for examination (Article 29 (2));
- The above provisions shall not prevail either over the legal restrictions with respect to the confidentiality of judicial investigations or over the higher interest of the State, when duly justified by the competent bodies, in issues relating to security, defense or international relations (Article 29 (3));
- To stipulate, in writing, a time limit of no less than 10 days for the fulfilment of an urgent request (Article 29 (2) and (4));
- To order any worker or representative of any of the entities under his jurisdiction, to be present at his Office or at any other place, so as to obtain the requested cooperation (Article 29 (5));
- Unjustified non-compliance with the duty to cooperate established in Article 29 (1) (2) (4) and Article 29 (5) of the Statue by a worker or a representative of any of the entities referred to in paragraph 1, shall constitute a crime of disobedience, notwithstanding the applicable disciplinary proceedings (Article 29 (6));
- To request statements or information from any person whenever they are necessary for establishing the facts (Article 30 (1));
- The mere duty of confidentiality of any citizen or entity, which is not derived from the Constitution or the law, does not prevail over the duty to cooperate with the Ombudsman within his competence (Article 30 (2));
- Where a convened person refuses to make a statement or to be present at the designated date and time, the Ombudsman may summon the persons to be heard by registered mail, and subsequent unjustified absence or refusal to make a statement shall constitute a qualified crime of disobedience (Article 30 (4)).

The Ombudsman performs his/her duties namely in response to complaints referred to him/her by any person or group of persons, including legal persons, regardless of the existence of direct, personal and legitimate interest or of any time limits.

Complaints are submitted orally at the Ombudsman or in writing, by letter, email or fax. Complainants can use a form which is in the Ombudsman website, available also in English. The complaints may be also submitted through any official of the Public Prosecution Service (Article 25 of the Statue).

The NHRI may act also on its own initiative. Usually, *ex officio* investigations are carried out whenever a situation of concern within the mandate of the Portuguese Ombudsman comes to his knowledge through any other means than a complaint (e.g. NGO reports, media reports), although those investigations can also take upon broader issues that arise out of a set of individual complaints addressed to the Ombudsman. It should also be mentioned that own initiative interventions are often used by the Portuguese Ombudsman to carry out general inspections to specific sectors of the Administration's activity (e.g. prisons, police stations, homes for the elderly).

Actions within the investigation process usually are carried out by the Ombudsman and his/her staff. According to the subject-matter in question, the complaint is conducted by one of the Thematic Units.

The investigation consists of requests for information, inspections, examinations, inquiries or any other procedure that does not collide with the fundamental rights of citizens. It shall be undertaken through informal and swift means, without being subject to procedural rules on the production of evidence.

Each investigation varies: in some cases the requests are made by informal and swift means (telephone contacts, emails), in others the NHRI resolves the complaint through formal requests, examination of documents, on-site visits (with or without prior notice) and meetings.

The NHRI maintains the secrecy of the facts that come to his knowledge in the performance of his/her duties where such secrecy is required by the nature of such facts.

The complainant is informed of how the investigation is progressing and is welcome to call or write at any time to find out what is happening. Where necessary the NHRI contacts the complainant for asking more details.

The Ombudsman may also refer the complainant to the competent authority when a judicial or administrative remedy, especially provided by law, is available (Article 32 of the Statute).

After investigating a case, the Ombudsman may conclude that the complaint is unfounded, in which case he will close the case and inform the complainant of the reasons underlying this decision (Article 31 (b) of the Statute).

Even if it is demonstrated that the complaint was well-founded, the case may still be closed if the illegality or injustice has been redressed in the meantime (Article 31 (c) of the Statute).

If this is not the case, unless measures are adopted to restore legality or overcome the injustice cited in the complaint, the Ombudsman may issue administrative or legislative recommendations and/or, if applicable, request the Constitutional Court's assessment. In minor or non-recurrent cases, the Ombudsman may simply address a

critical remark to the competent authorities or close the case on the basis of the explanations provided by them (Article 33 of the Statute).

A final note to mention complaints addressed to the toll-free hotlines for children, elderly persons and persons with disabilities. Those complaints are firstly dealt with by each hotline, in a particularly swift and informal manner, in direct contact and cooperation with the competent authorities and the complainants and providing all the information possible to the complainants about their rights and available remedies. If, however, the situation at hand is too complex in nature to be solved directly by the hotlines, a formal case is opened.

6.3.2 Reporting

The Paris Principles state that a NHRI shall have responsibilities in relation to (...) The preparation of reports on the national situation with regard to human rights in general, and on more specific matters.

The GANHRI has adopted the following General Observations on:

- ***Annual Report:*** *The Sub-Committee stresses the importance for an NHRI to prepare and publicize an annual report on its national situation with regard to human rights in general, and on more specific matters. This report should include an account of the activities undertaken by the NHRI to further its mandate during that year and should state its opinions, recommendations and proposals to address any human rights issues of concern.*

- ***Recommendations by NHRIs:*** *NHRI recommendations contained in annual, special or thematic human rights reports should normally be discussed within a reasonable amount of time, not to exceed six months, by the relevant government ministries as well as the competent parliamentary committees. These discussions should be held especially in order to determine the necessary follow up action, as appropriate in any given situation. NHRIs as part of their mandate to promote and protect human rights should ensure follow up action to recommendations contained in their reports.*

Discuss how the NHRI carries out this function. Please explain:

- The legal provisions that vest the NHRI with this function;
- How the NHRI carries out this function in practice;
- How annual and thematic reports are delivered (e.g. publicity, distribution, and languages available; authorities to which it is submitted);
- Whether relevant parties (individuals, government, public bodies etc) are obliged to formally respond to the recommendations and reports of the NHRI;
- How the NHRI follows up with authorities on its recommendations.

Under Article 23 (1) of the Statute, the Ombudsman submits an Annual Report of Activities to the Parliament, until 30 April, which shall include the initiatives, the complaints received, the actions undertaken and the results achieved. The report shall be published in the Official Journal of the Parliament.

Pursuant to Articles 238 and 239 of the Rules of Procedure of the Parliament, the Annual Report of the Portuguese Ombudsman, once received, is submitted to the competent parliamentary committee, which examines the report within 60 days,

requesting additional information and the presence of the Ombudsman if it deems necessary. The committee issues a reasoned opinion and submits it to the President of the Parliament, for publication in the Official Journal of the Parliament. Up to 30 days after receiving the opinion, the President includes in the agenda the plenary discussion of the Report.

The Report of 2016 to the Parliament was delivered by the Ombudsman on 26 April 2017. After that, the competent parliamentary committee holds a meeting with the Ombudsman to discuss the report. This hearing is broadcasted by the Parliament TV (universally accessible and free of charge).

After formal submission to the Parliament, the Ombudsman makes the report publicly available on website, where the previous Annual Reports can also be found (<http://www.provedor-jus.pt>, please see [Documentation/Annual Reports](#)).

The Ombudsman further publicises the Annual Report through the media and amongst the network of several national entities (e.g. President of the Republic, members of the Government, High Courts) and international entities, with which the Ombudsman cooperates (e.g. Members of the Community of Portuguese Speaking Countries, Members of Ibero-American Federation of Ombudsman).

The Report has two annexes. One of the annexes is based on the documentary collection illustrating the various dimensions of the Ombudsman's activity in the examination of complaints and the investigation of cases, reflecting some of his views on promoting and defending fundamental rights. The other, denotes the intervention of this State body regarding the NPM, created after the ratification by the Portuguese State of the OPCAT. An English version of both annexes is available on the website. The Annual Report is also disseminated in digital format.

Broadly speaking, the first annex includes the following information:

- Message from the Ombudsman containing main highlights of the year;
- Ombudsman's activity in the complaints procedures;
- Description of own-initiative cases opened, including those regarding actions of inspection;
- Description of requests addressed to the Constitutional Court;
- Statistical and substantive data on cases opened, pursuant to complaints or *ex officio*, in the Ombudsman's different areas of activity;
- Information on the activity of the Children, Elderly, and Persons with Disability Unit (N-CID);
- Information on the role and activity of the Ombudsman as National Human Rights Institution;
- Information on other activities such as promotion, awareness-raising and cooperation with other bodies;
- Information on International Relations activities;
- Information on the management of the Office's resources;

- Description of Ombudsman's decisions (Recommendations, Suggestions and Remarks) in the promotion and protection of fundamental rights and their follow-up;
- List of publications, articles and conferences produced and assisted by the Ombudsman and his/her staff.

The Ombudsman's outcome reports of inquiries and inspections are communicated to the competent authorities, after which they are made available on the Ombudsman's website. For instance: «The Good Practises in Municipally Noise Control», of 2013, and the «Report on the Visits to Homes and Temporary Shelters for Children and Young People in Madeira», of 2014. Those thematic reports are available in the website (<http://www.provedor-jus.pt>, please see [Documentation/Other Reports and Documentation/Publications](#)).

The Ombudsman ensures cooperation with similar institutions and with European Union and international organizations for the support and promotion of citizens' rights, freedoms and guarantees (Article 1(3) of the Statue).

So, in the performance of this duty, the NHRI elaborates reports on the national situation with regard to human rights, such as the thematic reports carried out for the Ibero-American Federation of Ombudsmen (FIO). The NHRI also answers independent questionnaires on the national situation, for example for the UN Rapporteurs (on right to adequate housing, right to water and sanitation, on the rights of persons with disabilities, among others) who are taken in account in the country report of those specific matters. For further information, please see section 8.3.

Recommendations of the Ombudsman (either issued individually or in the context of reports) must be replied to within 60 days upon receipt and are followed up with relevant authorities on an ongoing basis. The addressed entities must provide (detailed) information on the position taken and due justification in case of non-compliance. For further information on this, please see section 6.3.

Complainants are informed on the measures taken or not taken by the authorities in implementing specific recommendations. If necessary, in case of non-compliance the Ombudsman reiterates his position and/or address the Parliament, as well as to inform the public, directly or through State-owned media (Articles 38 and 35 (2) of the Statute).

The Ombudsman's Annual Reports to the Parliament, as well the other reports, include a brief description of the follow-up given to recommendations.

6.4 Promotional Functions

6.4.1 By raising awareness on human rights norms and issues

The Paris Principles state that a national institution shall have the

responsibility to publicize human rights and efforts to combat all forms of discrimination, in particular racial discrimination, by increasing public awareness, especially through information and education and by making use of all press organs.

Discuss how the NHRI carries out this function. Please explain:

- The legal provisions that vest the NHRI with this function;
- How the NHRI carries out this public education function in practice;
- Whether it makes publications or services available in several languages and if it makes interpretation available;
- What public awareness campaigns the NHRI has undertaken in relation to combating racism.

The broad mandate of the Portuguese Ombudsman encompasses promotional functions which require interaction with a range of actors, both national and international.

Pursuant to Article 1 (1) of the Statute, the Portuguese Ombudsman is mandated not only to defend but also to promote the rights, freedoms and guarantees and legitimate interests of citizens, ensuring that public powers act fairly and in compliance with the law.

The promotion function is further reflected in Article 20 (1) (d) of the Statute, which gives to the Ombudsman the competence to promote the dissemination of information on the content and meaning of fundamental rights, as well as of the role of the Ombudsman, the means of action at his/her disposal and how to appeal to him/her.

In February 2013, the Statute of the Portuguese Ombudsman was amended. The Article 4 (1), under the heading «Autonomy», and regarding the Ombudsman own initiative power, made express reference to the attention of defending the most vulnerable citizens on account of their age, race or ethnicity, gender or disability. This legislative amendment reflects the Ombudsman's growing concern regarding the issues of discrimination and xenophobia.

At international level, the Ombudsman ensures cooperation with similar institutions and with European Union and international organizations for the support and promotion of citizens' rights, freedoms and guarantees (Article 1 (3)). For instance the Portuguese Ombudsman participated in the revision of the Portuguese translation of the «Handbook on European law relating to access to justice», of the European Union Fundamental Rights Agency and the Council of Europe (available at <http://fra.europa.eu/en/publication/2016/handbook-european-law-relating-access-justice>).

In 2015, was celebrated the 40th anniversary of the Portuguese Ombudsman institution and, during that year, a set of events were organized in order to raise awareness and promote human rights and publicize the mission of this State Body.

To fulfil the role of promoting human rights, the Portuguese Ombudsman developed an institutional campaign about its mission in the community, regarding

the various areas of its intervention. That campaign was broadcast by public radios and televisions. In the same way, the mission of this State body was also published in the press.

This State body promoted the exhibition of films focusing on human rights, followed by debates with the audience. The Portuguese Ombudsman also disseminated his/her mission through other forms of cultural expression, such as concerts.

The Ombudsman is regularly invited to present communications in human rights conferences, seminars and classes, increasing public awareness on human rights and the importance to combat all forms of discrimination.

The need to promote a strong culture of respect for human rights is also anchored through the publication of brief notes on the Portuguese Ombudsman website. Frequently, the Ombudsman takes a stand with respect with human rights' issues and disseminates it through the website. For example, the Portuguese Ombudsman marked the International Day to Eliminate Racial Discrimination (<http://www.provedor-jus.pt/?idc=35&idi=16961>).

The child-friendly webpage, among other content, includes a brief, easy-to-read overview of the rights of the child, the role of this institution regarding their defence and the ways in which children and young people can contact the Ombudsman (<http://criancas.provedor-jus.pt/index.php>). The right of non-discrimination, among others laid down on the Convention of the Rights of the Child, is explained to children.

Since 2014, the Portuguese Ombudsman also presents his/her activities in a newsletter, available in the institutional website, also in English (<http://www.provedor-jus.pt/Documentation/Bulletin>). The newsletter, disseminated every two months, includes the following information:

- i) The development of the Ombudsman traditional activity;
- ii) «The Portuguese Ombudsman, Prisons and the 21st Century: visits diary»;
- iii) The Ombudsman as National Human Rights Institution;
- iv) The Portuguese Ombudsman as the National Preventive Mechanism;
- v) Description of Ombudsman's decisions (Recommendations, Suggestions and Remarks) in the promotion and protection of fundamental rights and their follow-up;
- vi) International Cooperation activities;
- vii) Portuguese Ombudsman's participations.

Relevant human rights education and awareness-raising activities also include the provision of specialised information and advice through the activity of the Ombudsman's Office concerning to complaints and the informal work of toll-free hotlines for children, elderly persons and persons with disability. In carrying out these tasks our Institution seeks not only to find solutions for the concrete cases

under investigation in cooperation with the competent public authorities, but also to inform the complainants about their rights and the means available to uphold them.

The Ombudsman has a very active Facebook page (<https://www.facebook.com/Provedor-de-Justiça>) with regular posts, which is also an important tool for promotional functions.

The Ombudsman produces publications on human rights based on his/her experience and activity, which are available for public consultation at the website. Further to this, the website of the Ombudsman has an English section that contains the most relevant information on this institution's mission and activity, main legal instruments and contacts ([http://www.provedor-jus.pt/English Version](http://www.provedor-jus.pt/English%20Version)).

In 2015, posters and flyers were disseminated on the mission and scope of the Ombudsman. These promotional materials were distributed to the police forces, health facilities and schools.

Concerning the provision of services in other languages, we would note that whenever a complaint is submitted in English, French and Spanish, the Ombudsman accepts it in the original language and always strives to ensure the best possible reply. Other languages may imply resorting to external translation services.

The protocol signed, in 2011, between the Ombudsman and the High Commission for Migration, with the purpose of improving assistance to migrants is still in force. The High Commission for Migration commits to helping the Ombudsman, with full confidentiality, with translations. In turn, the Portuguese Ombudsman commits to providing all necessary documents to enable the High Commission for Migration inform citizens of his mission and competences, as well as to forward to the Legal Support Offices at the National Centres those citizens that address him/her and that need guidance to which the High Commission is especially competent.

In the context of the Protocol signed between the two entities increased the institutional disclosure online. The address of the High Commission for Migration is available on the website of the Ombudsman (<http://www.provedor-jus.pt/?idc=38>), and contacts are in Portal of the Commission for Equality and Against Racial Discrimination (currently chaired by the High Commissioner for Migration).

In the fulfillment of its promotional mandate, the Ombudsman has been cooperating with the High Commission for Migration and with the Commission for Equality and Against Racial Discrimination in respect of awareness raising campaigns. Under the protocol agreed between the Ombudsman and the High Commissioner for Migration, in 2017, the Ombudsman disclosed flyers, in several languages (English, French, Mandarin, Romanian, Russian and Ukrainian) to raise awareness on the Ombudsman's role in the protection and promotion of the migrants' rights.

The National Institution also raises awareness through presentations and lectures. The Ombudsman and his/her staff are also regularly invited to present communications in human rights seminars, conferences and classes, in relation to combating racism. It was the case, for example, when:

- i) The Ombudsman attended at the seminar of the Movement Against the Hate Speech campaign, Youth for Human Rights Online, held in Lisbon, integrated in the «No hate speech movement», a youth campaign of the Council of Europe for human rights online, to reduce the levels of acceptance of hate speech and to develop online youth participation and citizenship;
- ii) Staff members of the Ombudsman institution participated in the workshop «Intolerance and Discrimination - Fair and Safe Cities for All», where they shared their experience with NGOs representatives in respect of preventing, raising awareness and combating all forms of discrimination and intolerance on the basis of ethnicity, religion, disability, sexual orientation, or any other factor.

The Ombudsman organized the first meeting of the CPLP Network of Ombudsmen and Human Rights Institutions, in April 2015, which resulted in firm condemnation of the cruel acts of terrorism and xenophobia perpetrated against civilians, in particular against children, which cause pain and anguish to thousands of citizens of various African Communities.

Several schools have been visited over the last years by the Ombudsman and his staff, under the protocol agreed between the Ombudsman and the Ministry of Education, in order to promote Human Rights, including the right to non-discrimination.

In 2015 and 2016 the Ombudsman celebrated the International Children's Day with a concert performed by the «Generation Orchestra», a project that involves children from different ethnical origins and aims at defending children's rights through the prevention of school abandonment, absence levels and school failure.

In its capacity of NPM, the Ombudsman is currently carrying out investigations to temporary installation centers of the international airports, namely the Lisbon, Oporto and Faro airports. Such investigations of the living conditions of foreigners include one-to-one interviews that give the detainees an opportunity to express if they are being treated with dignity and if at some point they perceived themselves as victims of discrimination on account of their race, ethnicity or nationality.

The Portuguese Ombudsman participates in various activities of the Council of Europe, namely via questionnaire response, as well as by cooperating in the working visits carried out by European Commission against Racism and Intolerance. This work contributes to a more complete diagnosis of the human rights situation in Portugal.

The Ombudsman Institution is engaged with the thematic networks of FIO (Ibero American Federation of Ombudsmen), which aim the promotion and protection of the human rights of Children and youth, Migrants and Women (<http://www.portalfio.org/>).

6.4.2 Through programmes for teaching and research

The Paris Principles state that a national institution shall have the responsibility to assist in the formulation of programmes for the teaching of, and research into, human rights and to take part in their execution in schools, universities and professional circles.

Discuss how the NHRI carries out this function. Please explain:

- The legal provisions that vest the NHRI with this function;
- How the NHRI carries out this education function in practice;
- Examples of the NHRI's initiatives in such programmes in schools, universities and professional groups.

Pursuant to Article 1 (1) of the Statute, the Portuguese Ombudsman is mandated not only to defend but also to promote the rights, freedoms and guarantees and legitimate interests of citizens, ensuring that public powers act fairly and in compliance with the law. The Ombudsman has competence to promote the diffusion of the content and the meaning of each of the fundamental rights and freedoms (Article 20 (d) of the Statute).

The Portuguese Ombudsman continued the actions directed at the promotion of human rights under various protocols, related to teaching and research, in schools, universities.

The Protocol signed, in 2011, between the Ministry of Education and the Ombudsman's Office aimed at regulating collaboration in the promotion and with public school students, is still in force. This Protocol provides for the dissemination of Human Rights in general and the Rights of the Child, in particular, and the development of activities in the school community. Under that protocol several primary and secondary schools have been visited over the last years by the Ombudsman and his staff.

In 2016 the Ombudsman received several students and engaged children in human rights' education activities, described in http://www.e-activist.com/ea-campaign/action.retrievefile.do?ea_fileid=14113.

The Cooperation Protocol between the Ombudsman and the Law School of the University of Lisbon, signed in 2011, is still in force. Its main aim is to establish the basis for cultural, educational, scientific and technical cooperation between these two institutions. Specifically, both parties commit to organising seminars or conferences on topics connected to the Ombudsman's activity.

The current Ombudsman participates regularly in events organized by the Faculty of Law, of the University of Lisbon, with the purpose to promote and protect human

rights, such as the intervention entitled «The Ombudsman and the promotion of Human Rights of Citizens in a perspective of present and future», held in 2014.

The Ombudsman presents communications in human rights conferences, seminars and classes organized by other universities. For example, the Ombudsman made the intervention entitled «The Ombudsman and the Human Rights», on a Postgraduate course, organized by the Faculty of Law of the University of Coimbra, in 2014, and an intervention entitled «Children and Young Human Right to participate: From dream to reality», issued at the seminar Children and Young' Right to participate: visions and practices, organized by the University of Évora, and by the Association «Children floor/ground».

The Ombudsman also participates in collective works or magazines, such as the Article entitled «The Ombudsman for the promotion and defense of the rights of migrants» part of the Sergio Vieira de Mello Chair's book on *Immigration, Refugees and Equality*, organized by the Brazilian Institute of Faculty of Law of the University of Lisbon.

As for professional groups, the Ombudsman, in 2014, delivered a communication entitled «Fundamental Rights in the Ombudsman's Practice», at the Conference «*Fundamental Rights in the Supreme Court Jurisprudence and in the Ombudsman's Practice*», organized by the Centre for Judicial Studies and delivered a communication entitled «Letter to a Young Magistrate, at the opening session of the Magistrates' Training Course in the Centre for Judicial Studies.

6.4.3 By addressing public opinion

The Paris Principles state that within the framework of its operation, the national institution shall address public opinion directly or through any press organ, particularly in order to publicize its opinions and recommendations.

Discuss how the NHRI carries out this function. Please explain:

- The legal provisions that vest the NHRI with this function;
- How the NHRI carries out this public education function in practice;
- What policies and strategies the NHRI has to engage with the media.

Specifically as regards the use of media, Article 35 (2) of the Statute, stipulates that, when the circumstances so require, the Ombudsman may decide to issue statements or to publish information concerning the conclusions reached in his/her cases or any other matter related to his/her activity, using, if necessary, the State-owned media to that end, and benefiting in any event from the legal regime governing the publication of official statements, according to the respective laws.

The Ombudsman seeks to maintain active media relations, not only as regards the dissemination of case decisions as mentioned above, but also to provide information on other activities and to raise awareness to relevant human rights issues or initiatives that come to his/her knowledge.

The Ombudsman's Press Adviser establishes contacts with other colleagues, to draw attention to these pieces of information on the Ombudsman's work and promote their inclusion in the news.

The Ombudsman regularly gives interviews to the media (tv, radios, newspapers), where he promotes human rights and expresses his concerns. This was the case of the latest newspaper interview in which the Ombudsman expressed his concerns with the conditions of the elderly and the need for a mental health plan in the penitentiary system.

In 2015, on the occasion of the 40th anniversary of the Portuguese Ombudsman institution and, during that year, a set of events were organized in order to raise awareness and promote human rights and publicize the mission of this State Body. To fulfil the role of promoting human rights, the Portuguese Ombudsman developed an institutional campaign about its mission in the community, regarding the various areas of its intervention. That campaign was broadcast by public radio and television. The mission of this State body was also published in the press, in the newspapers.

Frequently, the Ombudsman addresses public opinion directly through the website of the Institution in which he takes stands with respect with human rights' issues. The Ombudsman uses his Facebook page (<https://www.facebook.com/Provedor-de-Justiça>) with regular posts, which is also an important tool for addressing public opinion directly.

The current Ombudsman regularly writes opinion editorials, published in a mainstream newspaper, in which he promotes citizen's rights. Those articles are available in the Portuguese Ombudsman's website.

The Portuguese Ombudsman addresses the media with the public, publishing news, information, press releases and evoking international days that concern human rights issues.

Moreover, the Portuguese Ombudsman also has a systematic and planned presence in the press by giving interviews to the press in newspapers, radio and television

In the last four years the Portuguese Ombudsman gave the following interviews:

- 01/10/2013 *Bar Association Journal (Press)* - General scope
- 07/11/2013 Antena 1 (Radio) - General scope
- 20/11/2013 SIC (TV) - TV Story: A day at the Ombudsman office
- 02/12/2013 *Jornal I(Press)* - General scope
- 12/12/2013 *Rádio Renascença (Radio)* - General scope
- 17/12/2013 TSF (Radio) - General scope
- 29/04/2014 TSF and *Diário de Notícias* (Radio and Press) - General scope
- 01/07/2014 *Bar Association Journal (Press)* - Photography story on the Ombudsman activity
- 18/07/2014 *Porto Canal (TV)* - General scope

11/09/2014 *Jornal de Notícias (Press)* - General scope
 12/01/2015 *Rádio Renascença (Radio)* - General scope and commemoration of the Ombudsman's 40th anniversary
 15/04/2015 *Jornal SOL (Press)* - National Preventive Mechanism
 17/04/2015 *Antena 1 (Radio)* - General scope and commemoration of the Ombudsman's 40th anniversary
 24/04/2015 *TVI (TV)* - Recommendation 15/B/2012: Revision of the legal regime of the subsidy for special education attendance.
 18/05/2015 *RTP Madeira (TV)* - Commemoration of the Ombudsman's 40th anniversary
 20/05/2015 *Jornal da Madeira (Press)* - Visit to the Autonomous Region of Madeira
 27/05/2015 *RTP Açores (TV)* - Commemoration of the Ombudsman's 40th anniversary
 16/07/2015 *Observador (Press)* - Housing, urban rehabilitation, Sta. Filomena-Amadora
 26/06/2015 *RTP (TV)* - International Day in Support of Victims of Torture
 16/02/2016 *TVI (TV)* - TV Story – Ombudsman's support telephone lines
 23/05/2016 *Público (Press)* - General scope
 14/07/2016 *Jornal de Negócios (Press)* - General scope
 03/08/ 2016 *RTP (TV)* - Ponta Delgada Prison
 15/12/2016 *RTP (TV)* - General scope²⁰
 04/02/ 2017 *ECO (Press)* - General scope²¹
 22/02/2017 *Antena 1 (Radio)* - Prison system
 29/03/2017 *TSF (Radio)* - Request for constitutionality review²²
 21.04.2017 *Expresso (Press)* - Citizen card
 29/04/2017 *RTP (TV)* - Diogenes syndrome²³
 04/05/2017 *Agência LUSA (TV and Press)* – General scope and the report to the parliament 2016
 25/06/2017 *Antena 1 and Jornal de Negócios (radio and press)* – General scope
 25 e 26.06.2017 *Antena 1 and Jornal de Negócios (radio and press)* – General scope
 30/06/2017 *Revista Sollicitare* – General scope
 30/06/2017 *Boletim da Ordem dos Advogados* – General scope, <http://boletim.oa.pt/oa-01/entrevista>

Regarding international days, the Portuguese Ombudsman published in the institutional website the following evocative texts:

2013

01/10/2013 International Day of Older Persons
 15/10/2013 International Day for the Eradication of Poverty
 18/10/2013 European Day Against Human Trafficking
 03/12/2013 International Day of People with Disabilities
 10/12/2013 Human Rights Day

²⁰ <https://www.rtp.pt/play/p2044/e264341/360/545353>

²¹ <https://eco.pt/entrevista/no-mau-direito-so-uma-infima-parte-e-que-e-inconstitucional/>

²² <http://www.tsf.pt/programa/noticiarios/emissao/noticiario-das-13h00-5754704.html?autoplay=true>

²³ <https://www.rtp.pt/play/p3032/e286263/linha-da-frente>

2014

1/06/2014 World Children's Day
01/10/2014 International Day of Older Persons
10/10/2014 World Day Against the Death Penalty
17/10/2014 International Day for the Eradication of Poverty
18/10/2014 European Day Against Human Trafficking
20/11/2014 25 Years of the Convention on the Rights of the Child
25/11/2014 International Day for the Elimination of Violence against Women
03/12/2014 International Day of People with Disabilities
10/12/2014 Human Rights Day

2015

04/06/2015 World Environment Day
26/06/2015 International Day in Support of Victims of Torture
19/08/2015 World Humanitarian Day
21/08/2015 International Day for the Remembrance of the Slave Trade and its Abolition
30/08/2015 International Day of the Victims of Enforced Disappearances
01/10/2015 International Day of Older Persons
09/10/2015 World Mental Health Day
20/11/2015 Universal Children's Day
02/12/2015 International Day for Abolition of Slavery
03/12/2015 International Day of People with Disabilities
10/12/2015 Human Rights Day
18/12/2015 International Migrants Day

2016

27/01/2016 International Day of Commemoration in Memory of the Victims of the Holocaust
05/02/2016 International Day of Zero Tolerance for Female Genital Mutilation
29/02/2016 Zero Discrimination Day
08/03/2016 International Women's Day
21/03/2016 International Day to Eliminate Racial Discrimination
24/03/2016 International Day for the Right to the Truth concerning Gross Human Rights Violations and for the Dignity of Victims
07/04/2016 World Health Day
28/04/2016 World Day for Safety and Health at Work
19/05/2016 World Day for Cultural Diversity for Dialogue and Development
01/06/2016 World Children's Day
12/06/2016 World Day Against Child Labour
14/06/2016 World Elder Abuse Awareness Day
20/06/2016 World Refugee Day
26/06/2016 International Day in Support of Victims of Torture
29/07/2016 World Day against Trafficking in Persons
19/08/2016 World Humanitarian Day
23/08/2016 International Day for the Remembrance of the Slave Trade and its Abolition

30/08/2016 International Day of the Victims of Enforced Disappearances
15/09/2016 International Day of Democracy
21/09/2016 International Day of Peace
01/10/2016 International Day of Older Persons
10/10/2016 World Mental Health Day
17/10/2016 International Day for the Eradication of Poverty
18/11/2016 Universal Children's Day
25/11/2016 International Day for the Elimination of Violence against Women
02/12/2016 International Day for Abolition of Slavery
03/12/2016 International Day of People with Disabilities
10/12/2016 Human Rights Day
18/12/2016 International Migrants Day

2017

27/01/2017 International Day of Commemoration in Memory of the Victims of the Holocaust
06/02/2017 International Day of Zero Tolerance for Female Genital Mutilation
20/02/2017 World Day of Social Justice
08/03/2017 International Women's Day
21/03/2017 International Day to Eliminate Racial Discrimination
24/03/2017 International Day for the Right to the Truth concerning Gross Human Rights Violations and for the Dignity of Victims
07/04/2017 World Health Day
19/05/2017 World Day for Cultural Diversity for Dialogue and Development
01/06/2017 World Children's Day
12/06/2017 World Day Against Child Labour
14/06/2017 World Elder Abuse Awareness Day
20/06/2017 International Day in Support of Victims of Torture

7. **QUASI-JURISDICTIONAL FUNCTIONS** (optional, only for those NHRIs having quasi-judicial powers)

The Paris Principles state that a national institution may be authorized to hear and consider complaints and petitions concerning individual situations. Cases may be brought before it by individuals, their representatives, third parties, non-governmental organizations, and associations of trade unions or any other representative organizations. In such circumstances, and without prejudice to the principles stated above concerning the other powers of the commissions, the functions entrusted to them may be based on the following principles:

(a) Seeking an amicable settlement through conciliation or, within the limits prescribed by the law, through binding decisions or, where necessary, on the basis of confidentiality;

(b) Informing the party who filed the petition of his rights, in particular the remedies available to him, and promoting his access to them;

(c) Hearing any complaints or petitions or transmitting them to any other competent authority within the limits prescribed by the law;

(d) Making recommendations to the competent authorities, especially by proposing amendments or reforms of the laws, regulations and administrative practices, especially if they have created the difficulties encountered by the persons filing the petitions in order to assert their rights.

Discuss how the NHRI carries out this function. Please explain:

- The legal provisions that vest the NHRI with this function;
- How the NHRI carries out this complaints handling function in practice (i.e. an overview of the mechanisms and procedures adopted to receive, investigate, and handle complaints received).

Please provide an account of complaints-handling statistics (e.g. number and typology of complaints received and processed; resolved; dismissed; referred).

Please see section 6.3.1.

As regards complaints-handling statistics, please see «Statistics: brief notes», in the Latest Annual Report of the Ombudsman to the Parliament.

8. RELATIONSHIP WITH RELEVANT HUMAN RIGHTS STAKEHOLDERS AND OTHER BODIES

8.1 Relationships with Civil Society

The Paris Principles state that within the framework of its operation, the national institution shall, in view of the fundamental role played by the non-governmental organizations in expanding the work of the national institutions, develop relations with the non-governmental organizations devoted to promoting and protecting human rights, to economic and social development, to combating racism, to protecting particularly vulnerable groups (especially children, migrant workers, refugees, physically and mentally disabled persons) or to specialized areas.

Discuss how the NHRI carries out this responsibility. Please explain:

- Whether the provisions in the NHRI's founding law formalises relationships between the NHRI and civil society;
- How the NHRI has developed relationships with NGOs in practice;
- Which civil society groups the NHRI cooperates with (i.e. NGOs, trade unions, professional organisations, individuals or organisations espousing trends in philosophical or religious thought, universities and qualified experts, parliament and government departments);
- How frequent and what type of interaction the NHRI has with NGOs (e.g. workshops, meetings, joint projects, through complaints handling).

Even though neither the Constitution nor the Statute explicitly regulates a specific form of relationship between the Portuguese Ombudsman and civil society, this institution interacts with civil society actors in many ways.

The broad mandate described in section 6.1 allows the Ombudsman to act as a “channel” for voicing the concerns of civil society before public authorities.

Civil society actors such as trade unions, professional associations and NGOs often make use of the constitutional right to complain to the Ombudsman, in order to address their concerns regarding actions or omissions in the exercise of public powers, which they perceive as giving rise to illegality or unfairness and ultimately to breaches of fundamental and human rights.

By way of an example, in April 2017, the Ombudsman received an assembly of residents in several informal settlements in the outskirts of Lisbon, acknowledged their concerns regarding the precarious housing conditions of the neighbourhoods where they live.

The following table illustrates the meetings held over the last years with trade unions, professional associations, civil society organizations and NGOs.

	Trade unions and professional associations	Civil society organizations and NGOs
2013	4	2
2014	12	10
2015	7	7
2016	6	11
2017 *	2	4

* from 1 January to 31 April 2017

The Ombudsman not only meets with civil society representatives, but also on occasion takes the initiative to establish contacts with organisations working in fields falling within his/her scope of action, especially those representing population groups that are more vulnerable or likely to suffer discrimination.

Furthermore, the Ombudsman may decide to investigate matters on his/her own initiative, based on NGO reports or on information provided by other actors.

For instance, based on information transmitted by the Council of Europe on demolitions and evictions carried on by the municipality of Amadora, in the Lisbon district, the Ombudsman decided to address the situation raising humanitarian and social concerns and opened an *ex officio* procedure to investigate such evictions. In the course of the investigations carried out, on March 2015 the Ombudsman made a suggestion to the Amadora City Council to suspend demolitions and evictions until the municipality, the State and eventually other social institutions were able to rehouse all persons that did not have alternative housing. Furthermore, in view of the social dimension of this issue, which clearly outweighed the Municipal Council of Amadora and its ability to solve each and every situation, the Ombudsman addressed Recommendation 3/B/2016, of 17 August 2016, urging the Government

to review the Spatial Resettlement Program for the metropolitan areas of Lisbon and Porto²⁴.

Frequently, the Ombudsman opens procedures based on complaints by civil society actors and NGOs including, but not limited to, the following examples:

- in 2013, the NGO “Center for Environmental Law and Sustainable Development EURONATURA”, affiliated with ECA Iberica, addressed a complaint against an alleged lack of transparency regarding the granting of state guarantees for export credits (namely with respect to projects with potential environmental impacts) and possible human rights violations of local populations as a consequence of supported investments implementation. Through the investigation of the case, it was possible to ensure the improvement of disclosure procedures on the support granted. The Ombudsman concluded there were no offences to human rights, considering the nature and small size of the projects.
- in 2014, the Portuguese Association of Persons living with Disabilities filed a complaint against the legal framework of the temporary and extraordinary urban rehabilitation on the grounds that the interests of persons living with disabilities were not duly safeguarded. The intervention of the Ombudsman resulted in the Government commitment to amend the law in order to ensure that all accessibility standards must be complied with, except in cases of technical or economic unviability.
- in 2016, the social movement Lisbon Citizenship Forum submitted a complaint against the renovation works of a building to be used as a cultural equipment since it would allegedly cause an architectural, esthetic and landscape impact likely to affect the heritage value of the site. The case is currently under analysis.

The Ombudsman also acts a promoter of civil society’s knowledge of fundamental and human rights and remedies available, by exercising his/her human rights education and awareness-raising mandate (Article 20 (1) (d) of the Statute). Relevant initiatives under this provision include (i) decisions and positions taken by the Ombudsman in the context complaints handling, which always strive to clarify the content of fundamental/human rights, (ii) providing specialised information and advice through the toll-free hotlines for children, elderly persons and persons living with disability, (iii) organising and participating in seminars, conferences and lectures on human/fundamental rights, (iv) publishing studies and reports, (v) posting of information on the Ombudsman’s website and (vi) active press relations (please see sections 6.4.1 and 6.4.2 for further details).

Regarding formalised cooperation, the Protocol signed with the Institute for Child Support (IAC) a well-established Portuguese children rights NGO established in 1981, provides for cooperation between the Ombudsman’s toll-free Children’s Hotline, to receive complaints concerning cases of children and young people who are in danger or at risk and to provide information on the rights of the child, and

²⁴ <http://www.provedor-jus.pt/?idc=35&idi=16417>

the IAC's S.O.S Child Hotline, to prevent situations of risk to children. Collaboration includes mutual forwarding of calls and the organization of activities.

In the academic domain, a mention to the Cooperation Protocol signed with the Law School of the University of Lisbon (please see section 6.4.1).

In September 2014, the Ombudsman and the High School of Social Communication signed a Protocol of Collaboration that promotes cooperation and articulation with the main objective of disseminating the history and function of the Ombudsman Institution, namely through the production of a short institutional film.

The Ombudsman frequently attends, or is represented in, events and initiatives promoted by civil society and NGOs, where substantial interventions are delivered. Examples of this include, but are not limited, to:

- Participating in the conference *Zero new HIV Infections, Zero Cases of Discrimination, Zero Deaths from AIDS*²⁵, organized by the "HIV Group" (November 2013);
- Presenting the lecture "The Ombudsman, Fundamental Rights and Current Criminal Law", presented in the conference "Criminal Law Workshops", organized by the Trade Union of Portuguese Judges, by the Union of Magistrates of the Public Prosecutor's Office and the Faro District Council of the Portuguese Bar Association (March 2014);²⁶
- Presenting the lecture "Social Communication and Fundamental Rights: A Virtuous Circle?" in the conference dedicated to the commemorations of the 20 years of the Degree in Journalism, organized by the Faculty of Arts and the Centre for Interdisciplinary Studies of the 20th Century (October 2014)²⁷
- Participating in the "1st Iberian Conference on Restorative Justice", organized by Confiar - Association of Prison Fraternity (July 2015)²⁸;
- Participating in the conference "Prison System, Implementation of Sentences and Human Rights" organized by the Human Rights Commission of the Portuguese Bar Association (November 2015)²⁹
- Participating in the conference "Reflections (national and international) on Missing and Sexually Exploited Children" in the framework of the VIII Conference on Missing and Sexually Exploited Children, organized by the IAC (May 2015).
- Presenting the lecture "The rights and guarantees of citizens before the tax administration", presented in the conference organized by the Portuguese Tax Observatory (April 2015)³⁰;

²⁵ Speech (in Portuguese) available at http://www.provedor-jus.pt/site/public/archive/doc/III_Conferencia_VIH_Portugal.pdf

²⁶ Speech (in Portuguese) available at http://www.provedor-jus.pt/site/public/archive/doc/O_Provedor_de_Justica_os_Direitos_Fundamentais_e_o_Direito_Penal_Atual_0.pdf

²⁷ Speech (in Portuguese) available at http://www.provedor-jus.pt/site/public/archive/doc/Comunicacao_Social_311014VF.pdf

²⁸ Intervention (in Portuguese) available at <https://www.youtube.com/watch?v=MZshZuVZLiA>

²⁹ Speech (in Portuguese) available at http://www.provedor-jus.pt/site/public/archive/doc/O_Provedor_de_Justica_e_OA.pdf

³⁰ Speech (in Portuguese) available at <http://josedefariacosta.webs.com/Observatorio%2015%2004%202015%20-%20fiscalidade%20docx.pdf>

- Participating in the Conference "Europe and Refugees - Risks and Opportunities", organized by the Union of the Research and Inspection Careers of the Immigration and Borders Service (June 2016)³¹;
- Participating in the conference organized by the Robert F. Kennedy Human Rights Foundation and the Calouste Gulbenkian Foundation on the topic *Human Rights and the Challenges of the 21st Century. Globalizing Dignity*, which led to the signing of the "Lisbon Declaration", aimed at promoting an educational policy and fostering public debate in defence of human rights and human dignity (May 2016);
- Participating in the conference "The Defence of Human Rights and Addictive Behaviours: The Role of the Ombudsman", in the context of the National Congress of Addictology, organized by the Portuguese Association of Addictology (May 2016)³²;
- Participating in the Conference "(In)tolerance and Discrimination - Fairer and Safer Cities for All", organized by the Portuguese Association for Victim Support (October 2016);
- Participating in the Conference "The Convention on the rights of the Child today", promoted by the Faculty of Law of the Lisbon University, where the experience of the Ombudsman with NGOs and UNICEF in respect of preventing, and raising awareness of children's rights was shared (November 2016);
- Accompanying of a group of refugee families from Greece, on the occasion of their disembarkation at the Lisbon Airport together with the NGO Refugee Support Platform and the Immigration and Borders Service (December 2016);
- Participating in the colloquy "Penal Sanctions and Time" promoted by the "Law and Time Group" and held at the Faculty of Law of the University of Coimbra (March 2017).

The Ombudsman is actively involved in developing contacts and activities with migrant associations and NGOs, for instance the Portuguese Association for Victim Support (APAV) in order to raise awareness against discrimination.

Recently, and as results of the interaction with the Portuguese representation of Doctors of the World, the mentioned NGO disseminated information on the Ombudsman mandate as national human rights institution and NPM throughout the network of NGOs and its online platform³³

A special mention to the cooperation of the Ombudsman with the "Orquestra Geração" (the Generation Orchestra), a musical and a social project whose aim is to provide children from unfavourable conditions and different ethnicities with an extensive and comprehensive educational program designed to help their social

³¹ Speech (in Portuguese) available at http://webzoom.freewebs.com/josedefariacosta/02_05_2016_SessAo_de_Abertura_Conferencia_A_Europa_e_os_Refugiados-Riscos_e_Oportunidades.pdf

³² Speech (in Portuguese) available at http://webzoom.freewebs.com/josedefariacosta/20_05_2016_A_defesa_dos_direitos_humanos_e_os_comportamentos_aditivos_opapel_do_Provedor.pdf

³³ <http://en.plataformaongd.pt/>

integration. The “Orquestra Geração” held a concert included in the celebrations of the Portuguese Ombudsman 40th anniversary, in 2015.

8.2 Relationship with other with other bodies

The Paris Principles state that within the framework of its operation, the national institution shall maintain consultation with the other bodies, whether jurisdictional or otherwise, responsible for the promotion and protection of human rights (in particular ombudsmen, mediators and similar institutions).

*The GANHRI has adopted the following General Observations on **Cooperation with other human rights institutions**: NHRI should closely cooperate and share information with statutory institutions established also for the promotion and protection of human rights, for example at the state level or on thematic issues, as well as other organizations, such as NGOs, working in the field of human rights and should demonstrate that this occurs in their application to the GANHRI Sub-Committee.*

Discuss how the NHRI carries out this responsibility. Please explain:

- Whether the provisions in the NHRI’s founding law formalise relationships between the NHRI and other bodies with human rights responsibilities;
- How the NHRI has developed relationships with these bodies in practice;
- Which bodies the NHRI cooperates with (i.e. governmental agencies, the justice system, the parliament, any human rights committees, or any other bodies that might affect the human rights situation in the country);
- How frequent and what type of interaction the NHRI has with such bodies (e.g. training, consultations, meetings, joint projects, through complaints handling)
- The NHRI’s relationship with other human rights institutions at the national level (e.g. specialised human rights institutions, ombudsmen) (OPTIONAL: only for NHRI’s operating in countries where such bodies have been established).

Interaction with other bodies is a fundamental part of the Portuguese Ombudsman’s work. An important part of this work implies searching, in cooperation with the competent bodies and services, for the solutions that best allow to protect the legitimate interests of citizens and to improvement the Administration’s activity (Article 21 (1) (c) of the Statute). What is more, before any conclusions can be drawn, the Ombudsman must always hear the bodies and the officials at stake and allow them to provide every clarification required (Article 34 of the Statute). Finally, whenever the Ombudsman deems that a judicial or administrative remedy, specifically established by law, is available to the complainant, the Ombudsman may simply opt to refer the complainant to this other authority (Article 32 of the Statute).

However, cooperation between the Portuguese Ombudsman and other bodies with human rights responsibilities takes place not only in, but also beyond, the specific domain of case investigation.

Most significantly, the Ombudsman, in the capacity of NHRI, is invited to participate in the plenary and working group meetings of the Portuguese National Human Rights Committee. The Portuguese National Human Rights Committee is

an inter-ministerial coordination body, under the supervision of the Minister of Foreign Affairs, which pursues an integrated approach to human rights and aims to achieve a concerted action by and between public and private entities. Through participation in these meetings the Ombudsman is able to stay up to date on different human rights initiatives undertaken by the Portuguese authorities, namely to ratify/accede to international human rights instruments and to submit national implementation reports to the competent international bodies, as well as to provide relevant input drawing from his/her experience and views on the matters under consideration. The Ombudsman also has the opportunity to interact with other public and private entities invited to attend meetings of the Commission, such as NGOs.

The Ombudsman integrates the National Human Rights Committee Working Groups tasked with the definition of national human rights indicators based upon those developed by the High Commissioner of Nations United for Human Rights and which are essential for monitoring human rights standards (see section 6.3).

The Ombudsman is also represented in the National Commission for the Promotion of Rights and Protection of Children and Youth, a public body whose role is to plan the State's action as well to coordinate, follow-up and evaluate the action of public bodies and the community as regards the protection of children and youngsters at risk. The competences of the National Commission include, *inter alia*, participating in legislative changes on matters falling within its mandate; ensuring coordination of the action of all public and private entities, structures and programmes, with a view to strengthening cooperation strategies and rationalisation of resources; providing guidance and support to the Commissions for the Protection of Children and Young People, thus enabling them to improve their performance. The Ombudsman participates in the plenary and working group meetings of the National Commission, as well as in events organised by it.

The Ombudsman is further represented in the National Mechanism for Monitoring the Implementation of the Convention on the Rights of Persons with Disabilities.

As already mentioned (please see section 6.2.2) the Ombudsman maintains close cooperation with the High Commission for Migration and with the Commission for Equality and Against Racial Discrimination.

Also to be noted is the Ombudsman's interaction with the Commission for Labour and Employment Equality and the Commission for Citizenship and Gender Equality. These are administrative institutions with specialised competence in areas connected to the protection of human rights, which exercise their duties with independence, as ensured by the legal provisions that regulate their mandates, despite reporting to the competent members of Government.

Moreover, the Ombudsman also interacts with the National Data Protection Commission, which is an independent administrative entity operating under the Parliament.

The Portuguese Ombudsman follows the work of these institutions, to the extent that their opinions, studies and activities are of interest to the assessment of the complaints and own-initiative cases. If deemed adequate, the Ombudsman may also refer complainants to these institutions, pursuant to Article 32 of the Statute, above mentioned.

Interaction also includes the participation in some of the events and initiatives promoted by these entities.

It should be taken into account that as an institution with parliamentary legitimacy and reporting annually to the Parliament, the Portuguese Ombudsman naturally holds a particularly close connection with that institution. As previously explained, in addition to the Annual Reports, the Ombudsman can participate in the work of parliamentary committees, at their request and *ex officio*, as well as to issue opinions at the request of the Parliament. Legislative recommendations issued by the Ombudsman are forwarded to the Parliament and cases of non-compliance with the Ombudsman's decision or of lack of collaboration from the Administration may also be brought to the attention of the Parliament.

8.3 Cooperation with the United Nations and other organizations

The Paris Principles state that a national institution shall have the responsibility to cooperate with the United Nations and any other organization in the United Nations system, the regional institutions and the national institutions of other countries that are competent in the areas of the promotion and protection of human rights. It is important for NHRIs to engage with the international human rights system, in particular the Human Rights Council and its mechanisms (Special Procedures Mandate Holders) and the United Nations Human Rights Treaty Bodies. This means generally NHRIs providing input to, and participating in, these human rights mechanisms and following up at the national level to the recommendations resulting from the international human rights system. In addition, NHRIs should also actively engage with the GANHRI and its Sub-Committee on Accreditation, Bureau as well as regional coordinating bodies of NHRIs.

*The GANHRI has adopted the following General Observations on the **Interaction with the International Human Rights System**: The Sub-Committee would like to highlight the importance for NHRIs to engage with the international human rights system, in particular the Human Rights Council and its mechanisms (Special Procedures Mandate Holders) and the United Nations Human Rights Treaty Bodies. This means generally NHRIs making an input to, participating in these human rights mechanisms and following up at the national level to the recommendations resulting from the international human rights system. In addition, NHRIs should also actively engage with the GANHRI and its Sub-Committee on Accreditation, Bureau as well as regional coordinating bodies of NHRIs.*

Discuss how the NHRI carries out this function. Please explain:

- The legal provisions that vest the NHRI with this function;
- How the NHRI carries out this function in practice;

- Which UN mechanisms the NHRI has engaged with (e.g. Human rights Council, UPR, Treaty Bodies, Special procedures mandate holders, Commission on the Status of Women, etc)
- Which regional mechanisms the NHRI has engaged with (e.g. regional human rights commissions, courts, etc);
- The type of interaction the NHRI has had with these bodies (e.g. sending information, parallel reports, amicus curiae briefings; attending the meetings; acting as an implementing partner etc)
- How your NHRI has followed up at the national level to the recommendations resulting from these bodies, etc.);
- Which UN agencies the NHRI has engaged with (e.g. OHCHR regional or field offices, UNDP, UNCHR, human rights components of UN peacekeeping missions, etc);
- The type of interaction the NHRI has had with these bodies (e.g. sharing information, undertaking joint activities, acting as an implementing partner etc).

Article 1 (3) of the Statute establishes that the Ombudsman shall ensure cooperation with the European Union and international organizations in the defence and promotion of citizens' rights, freedoms and guarantees.

The Portuguese Ombudsman has developed significant activity in respect of strengthening relationships and cooperation with the international human rights system as well as with regional institutions and foreign national institutions devoted to the promotion and protection of human rights.

The Portuguese Ombudsman is an active member of the following regional institutions and networks.

Ibero-American Federation of Ombudsmen (FIO)

The Portuguese Ombudsman is presently the President of FIO, an international association established in 1995 that congregates over 100 ombudsmen, *defensores del pueblo*, national and regional human rights bodies and commissions from 20 Ibero-American countries.

Each year FIO publishes an annual thematic report on the situation of human rights in the Ibero-American geographic space that collects input from all country members and to which the Ombudsman contributes by drafting a chapter on Portugal. The last reports published were the X Report on Human Rights and Cultural Rights (2013), the XI Report on Human Rights and Environment (2014), the XII Report on Human Rights and Water (2015), the XIII Report on Transparency and Public Information (2015) and the XIV Report on Human Rights and Poverty (2016).

The Ombudsman attended or was represented in several events and activities promoted by FIO such as:

- The First Ibero-American Summit on Human Rights, Migrants and Trafficking held in Bogota, Colombia (May 2015);

- The II International Conference PRADPI-FIOPROFIO on the subject “Ombudsman and groups in situations of vulnerability”, held in Madrid, Spain, where presented the lecture “The right to adequate housing: challenges of the present, horizons of the future” (October 2015);
- The XX Annual Conference of FIO on the subject “Access to Public Information and Transparency” held in Montevideo, Uruguay, where he presented the lecture “The role of the Ombudsman and access to public information” (November 2015);
- The Workshop “Rights of Children and Young People - Methods and Guidelines for their Application in Practice”, organized by the Childhood and Adolescence Network of FIO held in Lima, Peru, with support of UNICEF and the European Union, amongst others (September 2016);
- The meeting with the Inter-American Court of Human Rights for the signature of a Memorandum of Cooperation between the IACHR and FIO (October 2016);
- The Conference on Poverty, Dignity and Human Rights held Santa Cruz de Tenerife, Spain, where the FIO XIII Report on Human Rights and Poverty was presented (November 2016);
- The Workshop on Social Conflicts, held in La Paz, Bolivia (December 2016);
- The Second Ibero-American Summit on Human Rights, Migrants and Trafficking, held in City of Mexico, Mexico, where a Protocol on Migrants and the Declaration of Mexico were signed by the FIO members (May 2017);

International Ombudsman Institute (IOI)

The Portuguese Ombudsman attended the Biennial Conference of the IOI European Region, held in Tallinn, Estonia (September 2014)

Association of Mediterranean Ombudsman (AOM)

The Portuguese Ombudsman attended the International Conference "Challenges for Ombudsman Institutions with respect to mixed migratory flows" organized by the AOM in cooperation with the FIO and the IOI and held in Tirana, Albania (September 2016)

Network of Ombudsmen, National Human Rights Commissions and other Human Rights Institutions of the Community of Portuguese Speaking Countries

The Network was established on 28 May 2013, under the decisive initiative of the Portuguese Ombudsman.

The first meeting of this Network was held in Lisbon, in April 2015, and its members publicly expressed their deep concern over the humanitarian tragedy affecting thousands of people crossing the Mediterranean Sea and firmly condemned the cruel acts of terrorism and xenophobia perpetrated against

civilians, in particular against children, which cause pain and anguish to thousands of citizens of various African Communities.

The Portuguese Ombudsman participated in the 1st International Network Seminar on "The Role of Human Rights Providers and Commissions in Ensuring Good Governance", held in Maputo, Mozambique, in February 2017.

Global Alliance of National Human Rights Institutions (GANHRI)

The Ombudsman participates in the Annual General Meeting and in the Annual Conference of the GANHRI that each year takes place in Geneva, Switzerland

European Network of National Human Rights Institutions (ENNHRI)

The Ombudsman was represented in the General Assembly Meeting of the ENNHRI that was held in Zagreb, Croatia, in October 2016, where the main lines of the plan of activities for 2017 were developed.

The Ombudsman also participated in the Tenth National Seminar of the European Network of Ombudsmen, organized by the European Ombudsman together with the Polish Ombudsman, held in Warsaw, Poland, in April 2015.

The Portuguese Ombudsman maintains a proactive relationship with the Universal System of Human Rights. The Ombudsman Cabinet channels information on this area and manages internal activities aimed at strengthening the link with United Nations bodies and mechanisms.

Human Rights Council

The Ombudsman, as National Human Rights Institution, delivered a video statement to the 27th Session of the HRC during the adoption of the regard to Universal Periodic Review of Portugal (18th September 2014).

The Ombudsman was represented in the 34th Session of the HRC where a statement was delivered following the presentation of the conclusions of the Special Rapporteur on adequate housing further to her visit to Portugal (2 March 2017).

Treaty Bodies

Committee on the Elimination of Racial Discrimination
Contribution to the 91st Session of the CERD regarding the periodic reports of Portugal on the implementation of the International Convention on the Elimination of All Forms of Racial Discrimination (November 2016).

Committee on the Rights of Persons with Disabilities

Contribution to the 15th Session of the CRPD regarding the periodic reports of Portugal on the implementation of the International Convention on the Rights of Persons with Disabilities (April 2016).

Special Procedures

Independent Expert on the issue of human rights obligations relating to the enjoyment of a safe, clean, healthy and sustainable environment

- Answer to questionnaire (June 2014).

Special Rapporteur on the implications for human rights of the environmentally sound management and disposal of hazardous substances and wastes:

- Answer to questionnaire (March 2015).

Special Rapporteur on the Rights of persons with disabilities:

- Answer to questionnaire (May 2015).

Special Rapporteur on the human rights to safe drinking water and sanitation:

- Answer to questionnaire (March 2014);

- Meeting with the SR during his visit to Portugal (December 2016);

- Answer to questionnaire (February 2017).

Special Rapporteur on adequate housing:

- Answer to questionnaires: Responsibilities of sub-national governments with respect to the right to adequate housing (November 2014); the right to adequate housing for the development and implementation of the New Urban Agenda to be adopted at Habitat III (July 2015); Homelessness and the right to housing (October 2015) The right to life + the right to adequate housing: the indivisibility and interdependence between these rights (June 2016);

- Meeting with the SR during her visit to Portugal (December 2016).

United Nations Agencies

The Portuguese Ombudsman maintains relationships with the Office of The High Commissioner for Human Rights, mainly through the National Institutions, Regional Mechanisms and Civil Society Section. From 1 August 2014 to 31 July 2015 a member of the Ombudsman's staff successfully participated in the NIRMSCC Fellowship Programme.

Relevant interaction with other agencies should be mentioned, namely with UNICEF, UNDP and UNCHR.

The Ombudsman, as President of the Ibero-American Ombudsman Federation (FIO) participated in the Third United Nations Conference on Housing and Sustainable Urban Development (Habitat III Program), held in Quito, Ecuador, on 19 and 20 October 2016. The Ombudsman joined the panel that discussed the theme of Human Rights Institutions and the New Urban Agenda.

The Portuguese Ombudsman is fully committed to cooperate with other National Human Rights Institutions, which is why the institution develops and participates in several projects and initiatives. The following examples illustrate the activity carried out in this context:

Signing of a Memorandum of Understanding on Cooperation with the Ombudsman and the State Controller of Israel (September 2014).

Reinforcing cooperation relationships with the Ombudsman of Albania in the course his visit to the Portuguese Ombudsman Institution (September 2014).

Participating, with two staff members as trainers, in the training course organized by the African Ombudsman Research Centre and the African Ombudsman and Mediators Association, in association with the Queen Margaret University, in Durban, South Africa. This course was attended by staff members of the Mozambique Ombudsman and the Angola Ombudsman (December 2014).

Participating in the Twinning Project “Support to Strengthening of the Ombudsman Institution in Turkey”, that included receiving the Turkish Ombudsman in Lisbon (October 2015), visiting the Ombudsman Institution in Ankara (February 2016) and having several staff members participating in workshops designed for the strengthening of the institution, held in Ankara, throughout 2016.

Participating in the Workshop on Protecting Migrants' Rights and Encouraging Integration, held in Kiev, Ukraine, organized and supported by the European Commission (TAIEX) and designed to strengthen the Ukrainian Parliament Commissioner for Human Rights (November 2015).

Participating in the project for improving the Operation, Communication and Expansion Strategy of the Ombudsman of the Republic of Angola, promoted by the Ombudsman of Angola and by the UNDP, that included visits to the institution headquarters, meetings with provincial authorities and local representatives of the Ombudsman of Angola in the provinces of Cunene, Cabinda and Huambo, enlightenment sessions with civil society, conducting a workshop on the role of the Ombudsman (September 2016) and receiving and training a staff member (April 2017).

Receiving a delegation of magistrates and auditors from the Macao Special Administrative Region of Republic of China as part of their professional training, in order to raise awareness of the Ombudsman's activities and to share experiences and practices in promoting and defending human rights (October 2016).

Receiving two staff members of the Ombudsman of Mozambique and providing them with training and experiences sharing (November 2016).

Participating in the Twinning Project “Support to the Strengthening of the Commissioner for Human Rights (Ombudsman) of the Republic of Azerbaijan”, that included the conducting several training activities, workshops and assessments in Baku (ongoing since November 2016).

Participating as implementing partner in the project “DEMOS – Ombudsmen Network - building together a more effective, accountable, transparent and ethical administration”, supported by European Union and aimed at the development of a cooperation program for the strengthening of Ombudsmen in the MAC region: Canary Islands (Spain), Azores and Madeira (Portugal), Cape Verde, Mauritania and Senegal (meetings and workshops held in Madeira - January 2017 – in Senegal – March 2017 - and in Cape Verde – April 2017).

Lastly, a note on the fact that the Portuguese Ombudsman, in cooperation with the European Union Fundamental Rights Agency and the Council of Europe, participated in the revision of the Portuguese translation of the “Handbook on European law relating to access to justice”.

SPECIFIC MANDATE (OPTIONAL)

***** only for those NHRI's which have been formally designated as NPM, by States that have ratified OPCAT*****

9. NATIONAL PREVENTIVE MECHANISM UNDER OPCAT

Under OPCAT: “Each State Party shall maintain, designate or establish, at the latest one year after the entry into force of the present Protocol or of its ratification or accession, one or several independent national preventive mechanisms for the prevention of torture at the domestic level. Mechanisms established by decentralized units may be designated as national preventive mechanisms for the purposes of the present Protocol if they are in conformity with its provisions (Art. 17). NPMs will be allowed to visit any place under the State jurisdiction and control where persons are or may be deprived of their liberty, either by virtue of an order given by a public authority or at its instigation or with its consent or acquiescence (hereinafter referred to as places of detention)). These visits shall be undertaken with a view to strengthening, if necessary, the protection of these persons against torture and other cruel, inhuman or degrading treatment or punishment (art.4). The States Parties shall guarantee the functional independence of the national preventive mechanisms as well as the independence of their personnel. (2) The States Parties shall take the necessary measures to ensure that the experts of the national preventive mechanism have the required capabilities and professional knowledge. They shall strive for a gender balance and the adequate representation of ethnic and minority groups in the country. (3) The States Parties undertake to make available the necessary resources for the functioning of the national preventive mechanisms. (4) When establishing national preventive mechanisms, States Parties shall give due consideration to the Principles relating to the status of national institutions for the promotion and protection of human rights Article 18: (1). For more information please refer to art. 19-23 and 35 of OPCAT.

Please discuss how the NHRI carries out its function. Please explain³⁴:

1. Are the mandate and powers of the NPM clearly and specifically established in national legislation as a constitutional or legislative text?

Yes. The ratification, by the Portuguese State, of the OPCAT, the Portuguese Ombudsman was preceded by an internal consultation procedure, in which was created an inter-ministerial working group (between the Ministry of Foreign Affairs, Ministry of Justice, Ministry of internal Administration, Ministry of Health and Ministry of National Defence). This procedure was also extended to the Prosecutor General and the Directorate-General for Justice Policy (Ministry of Justice); both entities indicated the Portuguese Ombudsman to be appointed as the Portuguese NPM since this State body is independent and autonomous in compliance with the Paris Principles. In addition, the Portuguese Ombudsman is empowered, since its inception, to make visits to places of detention (throughout the country and taking account its diversity, such as prisons, educational centres for young people or psychiatric hospitals) without previous notice, to issue recommendations in order to promote and defend human rights and to elaborate an annual activity report (Articles 21 (1) (a), 20 (1) (a) (b) and 23 of the Statute).

Besides these facts, and in the interim, the Ombudsman's Statute was amended by Law 17/2013, bearing in mind its full adaptation to the NPM's function. Among others, they were added the following two paragraphs to the first Article: «2. The Ombudsman may also act as an independent national institution for monitoring the implementation of international treaties and conventions on human rights, when designated for that purpose». This amendment also established that «[t]he Ombudsman may also act on his own initiative, defending and promoting the citizens' rights, freedoms and guarantees as well as their legitimate interests, particularly the most vulnerable citizens (...)» (Article 4 (1)) and the report of the Ombudsman's autonomous activity — as NPM — consist in an independent annex to its annual report that is sent to the international body to which it concerns (Article 23 (2) of the Statute).

After this, the Portuguese Ombudsman was appointed as NPM by the Resolution of the Council of Ministers 32/2012, of 20 May 2012, and it was formed, in April 2014, a support structure in order to accomplish the NPM's functions.

2. How “places of deprivation of liberty” visited by the NPM are defined? Is this definition in line with the OPCAT requirements?

The definition of “places of deprivation of liberty” used by the Portuguese NPM is the definition of the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. As constitutionality foreseen, «[t]he norms and principles of general or common international law form an integral part of Portuguese law.» (Article 8 (1) of the Constitution)

³⁴ Questions in this section are mainly based on the guidelines for the ongoing development of NPM published in the first annual report of the Subcommittee on Prevention of Torture and other cruel, inhuman or degrading treatment or punishment (February 2007- March 2008), pages 28-29.

3. Is the NPM established by a public, inclusive and transparent process?

Yes. Besides the internal consultation procedure that preceded its establishment as described above, the Portuguese NPM is internally organised in compliance with the requisites of transparency and openness. There is also an Advisory Council and its composition is partly defined by professional public associations (Bar Association, Medical Association and Psychologist Association) and through a co-optation procedure that is public and open to all associations with activity related to the NPM's aim.

4. Does it include civil society and other actors involved in the prevention of torture?

Yes. As mentioned before, the NPM has an Advisory Council with two representatives from NGOs that carry out activities related to the prevention of torture and ill-treatment. At the present time, the NGOs represented in the NPM Advisory Council are the International Amnesty and the Portuguese Association for Victim Support.

5. Has the designation of the NHRI as the NPM be open for debate, involving civil society?

Yes (see question 1). The activity developed by the Portuguese Ombudsman – in all its functions (traditional activity of handling complaints, NHRI and NPM) – is public and, therefore, open to debate, not only by NGOs that are members of the NPM Advisory Council but also to whole civil society.

6. How the independence of the NPM is fostered?

As mentioned in a previous section (in which this issue is developed), the Portuguese Ombudsman is an independent and impartial State body. Independency and impartiality that were strengthened with the Ombudsman's work in promoting and defending human rights. The independence of the NPM is guaranteed by an autonomous support structure and resources (composed by an Advisory Council, a Steering Committee and a Visitors Team), which is regulated by its own internal rules, counts on with its administrative support and has its specific financial resources. The NPM also has a specific methodology in planning visits to places of detention and monitoring the persons deprived of liberty's rights: the issues that will be analysed are previously and specifically defined, according to the nature and function of the institution which will be visited. The recommendations that the NPM addresses have a diverse structure and numeration (compared with others Ombudsman's decisions in its traditional activity), starting always with a reference to the legal instrument which bases the NPM's activity: the OPCAT (namely the Article 19).

In order to strengthen its independency, the NPM's annual report, its annual activity plan and its internal rules (general internal rules and the operation rules of the NPM Advisory Council) are autonomous documents that are prepared in a specific facility in which takes place the NPM working meetings and its actions training.

In addition, the NPM develops specific training activities to its visitors and has a specific visual identity (logo) that is used in an autonomous section in the institutional website, to customise offices supplies and to be applied in informative materials (*e.g.*, posters and flyers).

7. What is the process of selection and appointment of members?

The NPM visitors, NPM coordinating committee and the administrative support are from Ombudsman's staff. As the Ombudsman visits places of detention, the NPM benefits from the experience and the expertise of its staff in these matters. This staff is freely appointed by the Ombudsman, exception made, however, to two members of the Steering Committee which are the Coordinators of the Thematic Units that deal with cases regarding justice and security (Thematic Unit 5) and rights, freedoms and guarantees, penitentiary issues, health, education and constitutionality valuations (Thematic Unit 6), which are, for this reason, inherently members of the Steering Committee.

8. Are ways to avoid questions of conflict of interest in place?

The NPM team (as all the collaborators of this State body) is ruled, in its action, by applicable general principles of impartiality, independence, objectivity, cordiality and respect, in order to avoid any kind of conflict of interest or suspicions.

9. Are there stated criteria relating to the experience and expertise required to carry out NPM work effectively and impartially?

The NPM's staff is selected within persons who have expertise and experience in promoting and defending human rights, namely in monitoring places of detention, using, as guidelines, national legislation but also international legal instruments that rule the rights of persons deprived of liberty.

10. Is the NPM gender-balanced?

The NPM staff is composed of 9 women (2 as members of the Steering Committee, 6 as members of the Visitors Team and one provides the administrative support) and 6 men (3 as members of the Steering Committee and 3 as members of the Visitors Team).

11. Does the NPM have adequate representation of ethnic, minority and indigenous groups?

Pluralism has been taken attentively by the Ombudsman when establishing the Support Structure, namely through the Advisory Council which encompasses different groups. In fact, the Advisory Council in its composition reflects the attention to diversity and pluralism (See NPM annual report of 2015)

12. Has the State taken the necessary measures to ensure that the expert members of the national preventive mechanism have the required capabilities and professional knowledge?

The Portuguese State appointed the Portuguese Ombudsman as NPM bearing in mind its independence and the long-term expertise of its staff.

13. Have ad-hoc training been provided to the NPM?

Yes. Its staff participates in continuous training activities both at internal and international level.

The NPM participated in, among others, the following training activities:

- “Workshop on Strengthening the effective implementation and follow-up of recommendations by torture monitoring bodies in the European Union”, organised by the Ludwig Boltzman Institute (Bristol, November 2014 and Vienna, April 2015);
- “Police training of trainers on non-discrimination, with a focus on Roma and on sexual orientation and gender identity”, organised by the CoE (Strasbourg, November 2014);
- “Strengthening the implementation of fundamental rights in European Union law in criminal matters through cooperation between NPMs and the judiciary”, organised by the Ludwig Boltzman Institute (Vienna, June 2016).

Moreover, there is a specific initiative called «Meetings at the Coffee-Break» aimed at promoting the exchange of experiences and knowledge between the NPM members, including the Ombudsman, within a more informal setting.

14. Have adequate resources been provided for the specific work of the NPM (in accordance with article 18, 3 of the OPCAT)? Are they ring-fenced, in terms of both budget and human resources?

The NPM is performing its mission within the current resources available. Still, the Ombudsman has developed several initiatives with a view to increase its staff.

Concerning the NPM’s financial resources, they are registered separately in the Ombudsman’s budget.

15. Does the work programme of the NPM cover all potential and actual places of deprivation of liberty?

The visits are planned in order to ensure the broadest geographical scope and the diversity of places of detention, which include prisons facilities, cells of police stations and courts, educational centres for young people, psychiatric hospital and temporary installation centres for foreigner and asylum seekers.

16. Does the scheduling of the NPM visits ensure effective monitoring of such places with regard to safeguards against ill-treatment?

Yes. The scheduling takes into account the data available on such places with particular emphasis on the risk factors involved. Moreover, follow-up is key to ensure that negative aspects previously detected have been effectively corrected or improved.

17. Have working methods of the NPM been developed? Have they ever been reviewed with a view to effective identification of good practice and gaps in protection?

Yes, the NPM has developed working methods (guidelines, check-lists and other tools), which also take into account international instruments regarding the different subjects dealt with. Each visit is prepared carefully in view of its specific target, previous reports or information and its logistics. These instruments are continuously under evaluation and improvement, for instance through the inclusion of new aspects to observe when performing the visits and identification of possible future risk factors even when no recommendations are addressed.

In addition, the NPM has developed several training actions addressed those who work in places of detention. For instance, training actions for police officers, prison guards and militaries have already taken place on good practices and protection standards.

18. Does the NPM report on visits with feedback on good practice and gaps in protection to the institutions concerned?

Yes. After each visit a report is made (with information on the place of detention visited – location, object, NPM staff, date –, a description of the visiting methodology and the gaps in protection found during it as well as good practices, where applicable). Moreover, the NPM's annual report makes reference to all the visits made that year, based upon those individual reports.

19. Does the NPM address recommendations to the responsible authorities on improvements in practice, policy and law?

Yes. Recommendations are made to the responsible authorities, whenever improvements are required. Soon afterwards they are also publicly available, both in Portuguese and in English, in the Ombudsman's website³⁵.

20. Has the NPM established an ongoing dialogue with authorities based on the recommendations for changes arising from the visits and the action taken to respond to such recommendations (as per article 22 of the OPCAT)?

The NPM established a follow-up procedure in order to verify if its compliance with its recommendations, which consist of further visits and regular contacts with the entities concerned, focused on a constructive dialogue.

21. Does the NPM publish its annual report (as per article 23 of the OPCAT)?

³⁵ <http://www.provedor-jus.pt/?idc=107>

Yes. The Portuguese NPM publishes its annual report, which is also translated to English. Its Portuguese version is available as a printed book and as a digital document. The English version is only available in its digital format.

Both versions of the digital NPM's annual reports can be read in the Portuguese Ombudsman website in the following link: <http://www.provedor-jus.pt/?idc=108>. The NPM's annual report is sent to all the relevant national authorities (Parliament, Government, Police, Healthcare, Prison and Military institutions) as well as other foreign similar institutions.

22. Does the NPM communicate with the international human rights system and, in particular, with the Sub-committee on Prevention?

Yes. The NPM regularly communicates with several institutions which develop activities in promoting and defending human rights, as it happens with the Sub-Committee on Prevention of Torture (SPT). In this case, there is a NPM focal-point who establishes regular contacts with SPT (sending annual and thematic reports or writing contributes, for instance) and is present in SPT's regular work sessions. Besides this fact, the NPM participates in working meetings with the CoE Committee for the Prevention of Torture, the Association for the Prevention of Torture and the European Network of National Human Rights Institutions.