



HAUT-COMMISSARIAT AUX DROITS DE L'HOMME • OFFICE OF THE HIGH COMMISSIONER FOR HUMAN RIGHTS  
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REFERENCE: RRDD/ARDS/YB/SA

**Subject: Report of the Secretary-General on the Implementation of the activities of the International Decade for People of African descent, pursuant to resolution A/RES/69/16**

The Office of the High Commissioner for Human Rights presents its compliments to national human rights institutions and has the honour to refer to the General Assembly resolution A/RES/68/237 of 23 December 2013 which proclaimed the International Decade for the People of African Descent, commencing on 1 January 2015 and ending on 31 December 2024, with the theme “People of African descent: recognition, justice and development.”

Subsequently, a Programme of Activities for the implementation of the International Decade for People of African Descent was adopted by the General Assembly at its sixty-ninth session (resolution A/RES/69/16), requesting the Secretary-General to submit to the General Assembly an annual progress report on the implementation of the activities of the Decade.

The Programme of Activities for the International Decade recognizes that people of African descent all too often experience discrimination in their access to justice, and face alarmingly high rates of police violence, together with racial profiling. The Programme of Activities also requests States to design, implement and enforce effective measures to eliminate racial profiling and institutionalized stereotypes concerning people of African descent, and apply appropriate sanctions against law enforcement officials who act on the basis of racial profiling.

In this connection, the 2018 annual report will focus on racial profiling faced by people of African descent. Accordingly, the Office of the High Commissioner for Human Rights would be grateful if national human rights institutions could provide information outlined in the attached questionnaire for the preparation of this report. Submissions should be limited to four pages and sent to the Anti-Racial Discrimination Section of the Office of the United Nations High Commissioner for Human Rights, CH-1211, Geneva 10, fax number: +41 22 917 9014, and electronically to [registry@ohchr.org](mailto:registry@ohchr.org), no later than **7 May 2018**.

Please indicate whether the information provided can be made available on the OHCHR website. Any enquiries may be made to Sandra Aragón at [saragon@ohchr.org](mailto:saragon@ohchr.org), tel: +41 22 928 93 93.

The Office of the High Commissioner for Human Rights seizes this opportunity to renew to national human rights institutions the assurances of its highest consideration.

22 March 2018

## QUESTIONNAIRE PREPARED BY OHCHR ON THE IMPLEMENTATION OF THE PROGRAMME OF ACTIVITIES FOR THE INTERNATIONAL DECADE FOR PEOPLE OF AFRICAN DESCENT

Please answer the questions below, providing any supporting materials where available.

### **1. Please describe manifestations of racial/ethnic profiling against people of African descent that have been documented in your country, please include relevant data.**

According to Article 35 (3) of the Portuguese Constitution, information technology may not be used to treat data concerning ethnic origins, exception made to the express consent of the data owners, or to express authorisation provided for by law and with guarantees of non-discrimination, or for the purpose of processing statistical data that are not individually identifiable. Due to this constitutional provision, competent authorities for analysing racism complaints do not identify the ethnic origin of complainants. Thus, the Portuguese INHR (Portuguese Ombudsman) does not have a system of complaints that allows for ethnical identification of the complainant.

People from African descent in Portugal are not acknowledged as ethnic minorities. When speaking about treatment of people of African descent, the Government refers to the integration of immigrants; there is no special recognition of people of African descent who are nationals. As a result of the above, relevant legislation and institutional structures are related to the integration of immigrants. The Portuguese institution that deals specifically with racism complaints (the National Commission for Equality and Non-Discrimination) is part of the High Commissioner for Migration (ACM). During the year of 2017, 179 complaints of discrimination were address to this Commission. This number represented an increase comparing with the previous years. For example, in 2015 only 84 complaints were registered. However, the Commission stressed in the ACM annual report that this number might be below the reality<sup>1</sup>. The majority of the complaints are related to employment and security forces, commerce and public defamation on the internet<sup>2</sup>.

In the Portuguese Ombudsman practice, we may identify some complaints as being the more frequently made by people with African descent. That is the case of the right to a suitable housing, right to access to the Portuguese citizenship, right to personal integrity and rights of the inmates (for example, right to special leave from prisons<sup>3</sup>). These complaints are mostly addressed against the Municipalities (working as the responsible entities for public housing management), the Aliens and Borders Service, the Police forces and prison services.

The Report of the Working Group of Experts on People of African Descent on its eleventh session to Portugal mapped the existence of a circle of poverty, unequal access to

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<sup>1</sup> Alto Comissariado das Migrações, Relatório de Atividades, 2017, p. 86.

<sup>2</sup> Observatório das Migrações, Compilações Estatísticas, Discriminação de Base Racial e Étnica, p. 3. Available at [https://www.om.acm.gov.pt/publicacoes-om/publicacoes-estatisticas-om/-/asset\\_publisher/T3JVgIxxk3tC/content/discriminacao-de-base-racial-e-etnica?\\_101\\_INSTANCE\\_T3JVgIxxk3tC\\_redirect=%2Fpublicacoes-om%2Fpublicacoes-estatisticas-om](https://www.om.acm.gov.pt/publicacoes-om/publicacoes-estatisticas-om/-/asset_publisher/T3JVgIxxk3tC/content/discriminacao-de-base-racial-e-etnica?_101_INSTANCE_T3JVgIxxk3tC_redirect=%2Fpublicacoes-om%2Fpublicacoes-estatisticas-om).

<sup>3</sup> Some of the complaints lodged against the prison services by persons in detention appeal to Afrodescendant ethnicity as a cause for their complaint; these complaints are usually related to the refusal of special leave from the prison because it is difficult for Afro-descendants to comply with the legal requirement of a favourable family environment;

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education, public services, employment, as well as discrimination in the administration and functioning of the justice system. It also mentioned the existence of racial profiling and police violence against people of African descent<sup>4</sup>.

This situation may not have suffered an evolution, since non-governmental organisations still claim several profiling manifestations. A study promoted by the University Institute of Lisbon<sup>5</sup> demonstrated that students having the nationality of Portuguese-Speaking African Countries were three times more likely to fail in the 1st cycle and have double failure rates in 2nd and 3rd cycles and in secondary education. It also mentioned the disparity in the prison rate, which would be 15 times higher in the group of Africans of Portuguese speaking countries than in Portuguese<sup>6</sup>. In addition, this study also mentions the difficulties faced by African-descendent people in being able to exercise qualified professions and to live in segregated territories.

In a letter sent to the Committee on the Elimination of Racial Discrimination in December 2016 and signed by several associations and NGO's aimed at defending the rights of people with African origin, report was made that that police target Afro-descendant immigrants and carry out large-scale operations in neighbourhoods where they live.

In contrast, very few criminal cases of racism have been tried in relation to article 240 of the State party's Criminal Code dealing with racial discrimination<sup>7</sup>. Although data on crimes are also not disaggregated, only 37 crimes on racial and religious discrimination were registered by the authorities from 2012 to 2014. However, convictions are even lower, with the maximum number of 4 per year<sup>8</sup>.

### **2. Are there any other examples of good practice in the prevention and countering of racial/ethnic profiling in your country?**

As people of African descent are not recognized as a racial or ethnic minority in the national legal framework or as a specific group out of the groups of immigrants, there are no specific national policies or programme addressing their human rights. On the contrary, there are many initiatives targeting integration and promotion of Roma citizens. These initiatives were promoted by the High Commissioner for Migrants, and encompass, amongst other things, a National Strategy for the integration of Roma Communities, an Observatory for Roma communities, promotion and education of Roma history and culture and training of several professionals such as police officers and servants of the Employment and Social Service Institute<sup>9</sup>. This strategy also aims to promote an effective access of Roma citizens to social rights, such as housing, education, medical care, and

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<sup>4</sup> United Nations General Assembly, Human Rights Council, *Report fo the Working Group of Experts on People of African Descent on its eleventh session*, Addendum, Mission to Portugal, 13 August 2012, A/HRC/21/60/Add.1.

<sup>5</sup> Cristina Roldão, "Afrodescendentes no sistema educativo português", Instituto Universitário de Lisboa, 2016.

<sup>6</sup> Cristina Roldão, "Afrodescendentes no sistema educativo português", Instituto Universitário de Lisboa, 2016.

<sup>7</sup> Article 240 of the Criminal Code sets forth criminal penalties for racist organizations, incitement to discrimination or racist violence, racial vilification and racist threats.

<sup>8</sup> Number of convictions for crimes against cultural identity in 2015.

[http://www.sicj.dgpi.mj.pt/webeis/index.jsp?username=Publico&pgmWindowName=pgmWindow\\_636613685208070000](http://www.sicj.dgpi.mj.pt/webeis/index.jsp?username=Publico&pgmWindowName=pgmWindow_636613685208070000).

<sup>9</sup> National Roma Communities Integration Strategy 2013-2020, available at [https://www.acm.gov.pt/documents/10181/52642/ENICC\\_en.pdf/bc4d6288-1626-4fcd-baa0-9feb8da7860d](https://www.acm.gov.pt/documents/10181/52642/ENICC_en.pdf/bc4d6288-1626-4fcd-baa0-9feb8da7860d).

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Social Security. The experience achieved with this programmes could be used to promote an agenda on the rights of people of African descent.

Although specific problems of communities with African descent are not addressed as such, some programmes developed by the High Commissioner for Migration may have a positive impact in these communities. One of the programmes is specifically directed at supporting the social inclusion of children and youngsters within vulnerable social and economic contexts, particularly children of immigrants and ethnic minorities and is called “Choices”<sup>10</sup>. It was created, *inter alia*, to address the physical isolation, language problems and other challenges that the children of immigrants faced. The Choices programme supports programmes in municipalities throughout the country, especially in schools. It includes projects on vocational training, civic and community participation, computer literacy, entrepreneurship and empowerment.

Another programme worth mentioning was the “Between Cultures” programme, which promoted intercultural dialogue through awareness raising sessions, teacher training and training of intercultural mediators. This training was offered throughout the country and online as well. The intercultural mediators were placed in public institutions to help support the interaction of immigrants with the institution by, for instance, facilitating communication. The mediators are appointed by immigrant associations and have been, in practice, of the national origin of the majority of the immigrants in the region serviced by the particular institution.

Finally, the High Commissioner, together with the Social Security Institute also developed a programme, which has already ended, aimed at providing Health Support to Foreigners from Portuguese Speaking African Countries (PADE). This programme provided temporary accommodation and financial support to foreigners from these countries, who come to Portugal seeking health care.

The creation of a governmental organisation aimed at dealing with Human Rights issues in all Ministries (National Commission for Human Rights) was also an important step for implementing national policies for the national development of Human Rights guarantee. The Commission alerts responsible Ministries when Portugal is not up to best practice on a given human rights issue, including racism and racial discrimination, so that they may adopt corrective measures. Non-governmental organizations alert the Commission to human rights problems, as do research institutions in universities. The Portuguese Ombudsman is part of this Commission.

Another effort that has been made was to enrich the curricula of Portuguese schools to the Portuguese African historic and cultural heritage. For example, in the basic and secondary education, students have to study texts from Portuguese-speaking authors from Africa and Brazil (José Eduardo Agualusa, Lourenço do Rosário, Mia Couto, Ondjaki, José Craveirinha, Machado de Assis, Carlos Drummond de Andrade or Fernando Sylvan).

### **3. Has your institution advanced policies or initiatives that address racial profiling (e.g. public awareness campaigns, research, training, or partnership with law enforcement)?**

The Portuguese Ombudsman has been actively participating in initiatives that address racial profiling.

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<sup>10</sup> <http://www.programaescolhas.pt/>

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Firstly, following the above-mentioned complaints made by African descendants, the Portuguese Ombudsman made inspections to specific neighbourhoods, police stations and prisons and educational centres for young people between the ages of 12 and 21 who have committed criminal offenses.

In May 2012, The Ombudsman and the High Commissioner for Migration signed a Protocol in order to improve assistance to migrants, comprising the dissemination of relevant information, support to prospective complainants, supply of documentation and referral to Legal Support Offices. It is also important to mention the establishment of a protocol between the Ombudsman and the Ministry of Education and Science in order to promote Human Rights in schools, including the right to non-discrimination. The Ombudsman has already made several actions in this context.

In April 2015, it has organised the first meeting of the Network of Ombudsmen and National Human Rights Institutions of the Community of Portuguese-Speaking Countries, where it took the opportunity to public condemn racial profiling<sup>11</sup>.

In November 2016, it has presented its contribution on the implementation of the CERD Convention in Portugal to the UN Committee on the Elimination of Racial Discrimination. In this document, the Ombudsman expressed particular concern about the emergence of racist and xenophobic behaviour in Europe due to the refugee crisis. It also drew attention to the danger that in a globalized and interconnected society constitutes the use of the Internet as a form of human rights violation, in particular through cyber-racism.

Other important initiatives encompass organisation of conferences and seminars, with the participation of the civil society. For example, in 2016 the NHRI has participated in several conferences aimed at discussing the rights of immigrants and in a seminar regarding discrimination in urban areas and urban planning. Two studies on the role of the Ombudsman on defending the rights of Migrants were also published<sup>12</sup>. Moreover, the Ombudsman has created a leaflet aimed at informing immigrants on their rights, which is written and published in five different languages (French, English, Russian, Mandarin and Romanian).

The Portuguese Ombudsman also points out, on an annual basis, the following international days, through evocative texts published on his institutional website:

21st March – International day against racial discrimination;

23<sup>rd</sup> August- International Day of Remembrance of the Trafficking of Slaves and its Abolition.

#### **4. Please share any other initiative regarding the implementation of the International Decade for people of African descent by your institution.**

Other initiatives regarding the implementation of the International Decade for people of African descent encompass the cooperation between the Portuguese Ombudsman and its homologous institutions of the African Portuguese-Speaking countries. Between 2016 and 2017, the Portuguese NHRI has cooperated with the Angolan Ombudsman in the project “The Operation and Strategy for Communication and Expansion of the Ombudsman of the Republic of Angola” with the support of the United Nations Development Program. Currently, the Portuguese NHRI is involved in the Project MAC-DEMOS, which aims to

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<sup>11</sup> <http://www.provedor-jus.pt/?idc=35&idi=15610>.

<sup>12</sup> Provedor de Justiça, Relatório de Atividades de 2016, p. 175. Available at [http://www.provedor-jus.pt/site/public/archive/doc/PROVEDOR\\_DE\\_JUSTICA\\_RELATORIO\\_ATIVIDADES\\_2016\\_VF\\_0.pd](http://www.provedor-jus.pt/site/public/archive/doc/PROVEDOR_DE_JUSTICA_RELATORIO_ATIVIDADES_2016_VF_0.pd).

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develop a set of activities aimed at strengthening the NHRI institutions in favour of the citizens in the Madeira-Azores-Canary Islands Cooperation Area. The MAC-DEMOS project is supported by the European Union, and counts, as partners, Cape-Verde, Senegal and Mauritania.