The Permanent Mission of Portugal to the United Nations Office and other International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights and, with reference to its Note dated 25 March 2019, has the honour to enclose herewith the replies of the Portuguese authorities to the Questionnaire on the Implementation of the Programme of Activities for the International Decade for People of African Descent.

The Permanent Mission of Portugal avails itself of this opportunity to renew to the Office of the High Commissioner for Human Rights the assurances of its highest consideration.

Geneva, 17 April 2019

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26/2016, de 22 de August grants the right to accede to documents related to administrative proceedings.

Freedom of association includes the right to form or take part in political associations and parties. It should be underlined that fascist or fascist parties are forbidden under constitutional law. This prohibition is reiterated on Organic Law No. 2/2003, of 22 August 22. In addition, under the provisions of this Law, an organization that qualifies as fascist or sharing the fascist ideology can be extinguished by decision of the Constitutional Court, at the request of the Public Prosecutor.

**Freedom of expression** is constitutionally guaranteed (Article 37). Everyone has the right to freely express and disseminate his thoughts in words, images or by any other means, as well as the right to inform others, inform himself and be informed without hindrance or discrimination. The exercise of these rights may not be hindered or limited by any type or form of censorship.

With reference to **political participation**, political parties are expressly recognized by the Constitution and enjoy a number of prerogatives. Citizens are able to make political choices without undue interference, and vote in elections and in referendums based on universal, equal, direct, secret and periodic suffrage.

The **criminal policy** encompasses the definition of objectives and guidelines on crime prevention and criminal investigation and every two years they are subject to revision. Thus, for the 2017-2019 biennium, crimes such as crimes against freedom and sexual self-determination, crimes committed against children and young people, the elderly and other vulnerable people, domestic violence, human trafficking, corruption, influence peddling and crimes motivated by racial, religious and sexual discrimination are considered criminal phenomena of priority prevention. Whether crimes against freedom and sexual self-determination, human trafficking, domestic violence and corruption are in stake, these are considered crimes of priority investigation. The selection of these crimes also testify the national engagement with the main international and regional legal treaties on these matters already ratified by Portugal.
Under the Statute of the Victim approved by Law No. 130/2015 of 4 September, a set of measures to ensure the **protection and promotion of the rights of crime victims** has established. Thus, all victims regardless of their ancestry, nationality, social status, sex, ethnicity, race, language, age, religion, disability, political or ideological beliefs, sexual orientation, culture and educational level enjoy the fundamental rights inherent to the dignity of the human person, are guaranteed equal opportunities to live without violence and to preserve their physical and mental health. As follows from Article 8, the State must ensure that victims are provided with adequate information on the protection of their rights. A crime victim is entitled to receive information about his rights or about the state of the judicial proceedings, except in situations covered by judicial secrecy, and the main decisions taken therein, as well as to receive information in a simple and clear way, taking into account their personal characteristics, including any physical or mental disability which may affect the ability to understand or to be understood. The right to receive information includes, for instance, the procedures for making complaints with regard to a criminal offence and their role in connection with such procedures, how and under what conditions victims can access legal advice, legal aid and any other sort of advice and claim for compensation, as well as the available procedures for making complaints where their rights are not respected by the competent authority operating within the context of criminal proceedings. The extent or detail of information to be made available may vary depending on the specific needs and personal circumstances of the victim and the type or nature of the crime. Additional details may also be provided at later stages depending on the needs of the victim and the relevance, at each stage of proceedings, of such details.

It is worth mention that peaceful and inclusive societies can also be promoted by granting **citizenship** and, thus, fostering integration. The last amendments introduced to the Law on Nationality favoured this aspect (Organic Law No. 2/21018, of 5 July). In this regard, two major changes should be highlighted. The most important change undoubtedly concerns the *ex lege* acquisition at birth in the form a moderate version of *in sui rite*. According to the new regime, all persons born in Portuguese territory acquire *ex lege* Portuguese nationality provided that at the time of birth one of the parents has been legally resident for at least two years. This regime is not applicable to children of foreigners who are at the service of their State and foreign parents may also preclude the birth acquisition by expressly stating so.
Second, naturalization has been facilitated by a lowering of the residence requirement to five years and by additional changes.

Regarding access to justice, in particular, this is a matter of a particularly complex nature, combining various guarantees with different scopes of application. It encompasses a general guarantee of equality before courts and tribunals, it entitles individuals to a fair and public hearing by a competent, independent and impartial tribunal established by law, it includes a set of procedural rights and entails the establishment of a balanced legal aid system with no deterrent effects on the ability of persons to pursue the vindication of their rights.

The Portuguese Constitution enshrines the principle of effective judicial protection, guaranteeing everyone access to the courts in order to defend his or her rights and providing that justice cannot be denied to anyone due to lack of financial means. Our 2004 law on access to justice covers legal aid matters and encompasses a broad legal aid beneficiaries universe, namely, Portuguese nationals, European Union Member State’s nationals, foreigners and stateless persons with a valid residence permit in a European Union Member State and foreigners without a valid residence permit in a European Union Member State provided the other State grants legal aid to a Portuguese citizen in the same conditions.

In order to improve the quality of access to the legal aid system and to provide a better service to those who need it, the Portuguese Government has recently finalised a new legal framework on access to justice aimed at guaranteeing an equal access to justice for all without discrimination through an inclusive system enabling citizens, especially those who do not have sufficient financial resources.

The legal framework on prevention, prohibition and combating all forms of discrimination based on racial and ethnic origin, colour, nationality, ancestry and territory of origin was recently amended. Law No. 93/2017 of 23 of August, specifically prohibits any form of discrimination based on these grounds and considers as discriminatory a range of practices, such as the refusal to supply or impediment to enjoy goods or services available to the public and any practice or measure adopted by any organ, service, entity, company or employee of State, which affect or hamper the practice the exercise of any right.
MINISTRY OF JUSTICE CONTRIBUTION FOR THE PREPARATION OF THE ANNUAL PROGRESS REPORT ON THE IMPLEMENTATION OF THE ACTIVITIES OF THE INTERNATIONAL DECADE FOR PEOPLE OF AFRICAN DESCENT

How does your Government implement SDG 16 promoting peaceful and inclusive societies for sustainable development? How is your Government providing equal access to justice for people of African descent, tackling institutional discrimination, including in the justice system and building effective, accountable and inclusive institutions, free of discrimination at all levels?

Has your Government adopted any measures to ensure the right of people of African descent to participate in, contribute to and enjoy the benefits of development policies?

First, it should be underlined that the Portuguese Constitution enshrines the equal treatment principle before the law [Article 13 (1)] and prohibits discrimination founded on a large and non-exhaustive list of protected grounds [Article 13 (2)]. This list includes ancestry, sex, race, language, territory of origin, religion, political or ideological beliefs, education, economic situation, social circumstances or sexual orientation. Our entire legal system is imbued with this principle. Thus, our legal system and, in particular the legal regimes abovementioned, is indistinctively applicable regardless of people’s origin.

Additionally, it should be noted that, according to Article 15 of the Portuguese Constitution, foreigners, stateless persons and European citizens who reside in Portugal or find themselves in the country, enjoy the same rights and are subject to the same duties as the Portuguese citizens, with the exception of certain political rights, public offices not predominantly technical in nature and rights that the Constitution and the law reserve exclusively for Portuguese citizens, like serving in the armed forces.

Subject to reciprocity, exceptions are made to:

- citizens of Portuguese speaking countries residing in Portugal, excluding appointment to the offices of President of the Republic, President of the Assembly of the Republic, Prime Minister and President of any of the supreme courts, and of service in the armed forces and the diplomatic corps;
foreigners residing in Portugal regarding the right to vote for, and stand for, election as local councillors; and

- citizens of European Union Member States residing in Portugal as regards the right to vote for, and stand for, election as Members of the European Parliament.

Having in mind the issues raised by the questions, it should be underlined that implementing lasting solutions to reduce violence, deliver justice, combat corruption and ensure inclusive participation at all times, stem from a complex legal framework, which covers matters such as electing specific types of crimes to be primarily prevented and investigated by the authorities, political participation, freedom of association, public access to information, freedom of expression and access to justice.

With respect to **freedom of association**, our Constitution grants the right to all citizens to freely associate with one another without any authorisation, on condition that such associations are not intended to promote violence and that their purposes are not contrary to criminal law. Article 46 of the Constitution further provides that associations shall pursue their purposes freely and without interference from public authorities and shall not be dissolved by the State or have their activities suspended, except in such cases as the law may provide for and then only by judicial order.

The Portuguese Constitution recognizes a number of rights to citizens in their **relations with Public Administration**, such as the right to be informed about progress of the procedures which directly concern them and of such decisions as are taken in relation to them, the right of access to administrative files and records, subject to the law governing matters of internal and external security, criminal investigation, and personal privacy, the right to be notified of administrative acts which concern them, and that those acts which affect their rights or legally protected interests be expressly motivated, the right to judicial protection of their rights and legally protected interests, the right of appeal against acts and norms which affect such acts or interests, the right to the issuing of positive rulings requiring the practise of administrative acts that are due by law, and of adequate interim measures and the right to a maximum time limit for reply from the Administration, as provided for by law (Article 268). The procedure of administrative bodies is governed by the Code of Administrative Procedure and Law No.